LEGISLATIVE COUNCIL

Wednesday 6 April 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor's Deputy, by message, assented to the following bills:

Classification (Publications, Films and Computer Games) (Types of Classification) Amendment,

Industrial Law Reform (Fair Work).

SELECT COMMITTEE ON THE STATUS OF FATHERS IN SOUTH AUSTRALIA

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I bring up the report and minutes of evidence of the committee.

Report received and ordered to be printed.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I lay on the table the report of the committee on suppression orders.

Report received and ordered to be printed.

The Hon. J. GAZZOLA: I bring up the 17th report of the committee.

Report received.

QUESTION TIME

MENTAL HEALTH

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for Emergency Services a question about mental health.

Leave granted.

The Hon. R.I. LUCAS: The opposition now has a copy of a previously confidential briefing to the government on the issue of mental health capital and recurrent. In that document, which was provided yesterday, there is a reference to capital works for a 12-bed facility under the general category of Child and Youth. The minister was advised that funds were allocated to this project in the May 2004 budget, but the capital program was recast allowing the forensic and secure rehabilitation projects to be brought forward. The minister was also advised as a consequence that this project now does not have a start time frame until 2008 and that completion will not occur until 2010.

Significant concern has been expressed by a number of persons interested in what they have portrayed as a broken commitment or a broken promise by the government. This announcement was made in the May budget and trumpeted by the minister as being one of the major initiatives in the mental health area. Specific concerns have been raised by many members in terms of the specific mental health problems of young people, and children in particular. The minister and the government have indicated what they were doing in a number of areas in the announcement in the May 2004 budget.

Given that the minister was embarrassed into having to table this particular document yesterday, my question is: how does the minister defend the delay of up to six years now in the eventual completion of the critically needed mental health capital works projects for children and young people, given that they were announced in the May 2004 budget? How does the Minister Assisting in Mental Health justify the delay in this much-needed area?

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): Clearly, it does appear that the honourable member has a problem with my being a minister assisting. It is hardly a new concept in South Australia, the commonwealth or anywhere else. I point out that this government has made progress. Recurrent spending in mental health services is $20 million more than when we took office. As well, I have put on record on several occasions that we have an $80 million capital works metropolitan program in place to rebuild facilities right across the metropolitan area—not just Glenside, where the honourable member wants to keep people.

The capital works program tabled yesterday is only one part of the full measure of reforms in mental health, which we will be rolling out over the next seven years or so. The Premier is on record as saying that mental health is a priority for us. The Minister for Health is on record as saying that mental health is her top priority. My appointment as minister assisting is a clear demonstration of that commitment. I will refer any additional matters to the minister in the other place for a more detailed response and report back to the council.

The Hon. R.I. LUCAS: Mr Acting President, I have a supplementary question.

The PRESIDENT: Do you know something that I do not know? You keep referring to me as the 'Acting President'.

The Hon. R.I. LUCAS: We have been having discussions, but they have not yet been concluded—and we will advise you in due course—but only with the left faction of your caucus, not the right at this stage.

The PRESIDENT: The honourable member should ask his question.

The Hon. R.I. LUCAS: Will the minister confirm that her government made a specific commitment in the budget last year to those concerned about the mental health of children and young people that there would be a specific capital works project funded in last year's budget; and is this minister now breaking that commitment?

The Hon. CARMEL ZOLLO: I will refer the honourable member's question to the lead minister in the other place, as it is an operational issue, and bring back a response.

The Hon. R.I. LUCAS: I have a supplementary question. So we can save ourselves time: has the minister, as a result of her embarrassment yesterday, been told that she is not allowed to answer any questions, other than indicate that she must refer them to the Minister for Health or call them 'operational issues'?

The Hon. CARMEL ZOLLO: Clearly, the honourable member does not have a very good memory. I outlined my role during the first question that I answered.

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: The report of Professor O'Donoghue and the Reverend Tim Costello—

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation.

The Hon. R.D. LAWSON: —delivered to the Premier in October 2004, contained key recommendations which included the following:

> . . . whilst the whole of government approach is supported, there needs to be a forum where some of the large philosophical issues can be debated. These include:
>
> 1. What does self determination actually mean and what model for self governance best follows from that?

I interpose to say that the Treasurer last year announced that self-determination on the lands was dead. It continues:

> 2. What are the realities for a hunter-gatherer nomadic culture that has lost this mainstay and is gradually transitioning to a remote community where the arts, music and sport are the only opportunities for commerce? Is it a welfare economy?
>
> 3. What is a sane delivery system on the ground in the APY lands?
>
> 4. Most pertinently, how are the issues of long-term partnership and consultation, capacity and community building to be reconciled to the political imperatives of further coroner's reports and the requirements for immediate and quick relief?
>
> 5. If we cannot crisis-manage long term, what is a sustainable strategy?
>
> We would recommend a couple of days facilitated discussion and debate to work through these issues in order to give the whole of government approach a greater chance of success.
>
> World Vision Australia would need to be appointed by the Premier with proper authority and appropriate funding to act as a capacity builder in the APY Lands. Lowitja O'Donoghue would continue on as an adviser to the Rann government on negotiated terms.

My questions are:

1. Has the Premier agreed to the appointment of World Vision Australia to act as a capacity builder on the APY lands?

2. Has he engaged Professor O'Donoghue to continue to act as adviser to the government on negotiated terms?

3. What action does the government intend to take in respect of the recommendation that there be a forum to discuss those large philosophical issues identified by the authors of the report?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Premier and bring back a reply.

The Hon. KATE REYNOLDS: I have a supplementary question. What explanation can the Premier give for the date of that report being March—I think 21 March—when, in fact, it was provided to the government in October 2004 and not March 2005?

The Hon. P. HOLLOWAY: I will also refer that question to the Premier and bring back a reply.

APIARY INDUSTRY FUND

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, questions about the apiary industry fund.

Leave granted.

The Hon. CAROLINE SCHAEFER: In 1999, the South Australian apiary industry voted to pay a 40 cent per hive levy hypothecated for a mandatory disease control program and for the funding of the Apiary Industry Advisory Group. The mandatory disease control program was a four-year specific program. The four-year term has now expired and the Apiary Industry Advisory Group has been disbanded. My questions are:

1. Why, if this fund is not being used, is it still being collected?

2. If it is being used, what is it being used for?

3. Why have apiarists not been consulted in respect of this shifting of funds?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her questions. I will refer them to the Minister for Agriculture, Food and Fisheries in another place and bring back a reply.

STATE ECONOMY

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about the South Australian economy.

Leave granted.

The Hon. R.K. SNEATH: A target of the South Australian Strategic Plan is to exceed the national economic growth rate by March 2014. How is the state performing in terms of achieving this goal?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Just the other day, the latest forecast from Access Economics Business Outlook was released. This was for the March quarter of 2005. I am very pleased to say that it provides an excellent assessment for South Australia. Considering that Access Economics has been consistently more sceptical than the corporate sector regarding the robustness of the South Australian economy, you would have to say that a positive forecast from Access Economics is high praise indeed. In particular, it predicts that South Australian economic growth in 2004-05 is likely to outpace national growth.

Access cites that South Australia has seen high levels of business investment in recent years, with a business investment to output ratio in South Australia indicating a degree of business optimism about the future. That optimism has not only been higher than the national average but also that gap is growing. Access believes that South Australia is increasingly seen in the corporate world as a force to be reckoned with—a sentiment that is supported by the high level of business investments that are either currently under way or imminent. These include the billion dollar pulp mill at Mount Gambier, the Olympic Dam expansion, the city central development, various wind farm developments throughout the state and the new Adelaide Airport terminal to name but a few. Of course, I understand that today the Infrastructure Plan was released, with a number of further projects. As a consequence, employment growth is solid, and the state's unemployment rate is at its lowest level in 30 years and fast approaching the national average.

Access expects South Australian employment growth to remain solid in 2004-05 at 2.7 per cent, which is above the forecast from Treasury (0.75 per cent) and the South Australian Centre for Economic Studies (half a per cent). The low forecast from Treasury and SACES reflects the fact that those forecasts were put together several months ago, without the knowledge of the more recent labour force statistics released by the Australian Bureau of Statistics.

Access Economics notes that rising interest rates and the rising Australian dollar (at its least competitive level in two decades) will make it difficult for Australian car manufactur-

ers to maintain market share. Nevertheless, confidence in that sector remains strong, with Mitsubishi going ahead with its plant upgrade and the new car components plant progressing at Elizabeth. Access predicts South Australian GSP growth will slow to 2.3 per cent during 2004-05 but remain higher than the national growth forecast of 2 per cent.

This report augurs well for South Australia and highlights that the policies and approach of this government over the last three years are on the right track and paying dividends. But, of course, none of us can afford to be complacent. There are many challenges ahead, and the government will continue to work with industry to create the right environment for sustainable economic and job growth.

The Hon. R.I. LUCAS (Leader of the Opposition): I have a supplementary question. Is the minister aware that in a number of the later years of the Liberal government—from 1998 to 2001—GSP growth in South Australia out rated the national GDP growth during that period?

The Hon. P. HOLLOWAY: I am certainly aware that the previous government, through its privatisation of the electricity system, kept electricity prices low just prior to and just after the election, until full retail contestability came in on 31 December 2002. It locked it in as part of the sale process. It locked in a 20 or 30 per cent price rise on 31 December 2002, with full retail contestability. It had vesting contracts, which effectively kept the price of electricity low until full retail contestability. It made it impossible for this government to reverse it, so we were hit by a 30 per cent rise. That was the legacy of the previous government. That sort of nonsense has gone—the handouts on which its growth was achieved. Companies, which subsequently went bust—all that has gone; all those artifices. What we have now is growth based on substance.

The Hon. R.I. LUCAS: I have a further supplementary question. Given that the minister is not aware of those GSP figures, will he bring back to the council a comparison of the GSP figures with the national growth figures in the last four years of the Liberal government to demonstrate the accuracy of the claim made by the opposition?

The Hon. P. HOLLOWAY: The Leader of the Opposition, or any other member, is quite capable of looking up economic figures. They do not need me to do that, Mr President.

The Hon. R.I. Lucas: Bit embarrassing for you, isn't it?

The Hon. P. HOLLOWAY: No, not at all.

Members interjecting:

The PRESIDENT: Order! I think the answer is that all members should do their own research.

AUTISM

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, who I believe is representing the Minister for Disability, a question regarding services for people with autism.

Leave granted.

The Hon. KATE REYNOLDS: I have been contacted by a parent who is most concerned that the government has not released its report into the review of services for people with autism spectrum disorders. Apparently this review, which included submissions from parents of children with autism, was completed in May 2003, that is, just short of two years ago. The review considered, I am told, systemic issues. It looked at the interface between mental health and education services and it considered what changes should be made to the range and delivery of services for people with autism spectrum disorders. I have been told that it was widely expected that the review would find that the needs of this particular group were not being met by the current system and that Autism SA is not being adequately resourced by the state government. I have also been told that the report was expected to make recommendations about the provision of critical diagnostic services.

The parent who contacted me expressed her anger and frustration that the government had sought the views of families and then, as she described it, 'Hidden the report away to gather dust while kids and young people once again missed out.' I should also note that this matter was raised with me by some parents who attended the picnic in Elder Park today organised by the Dignity for the Disabled Coalition—the very well-attended picnic in the park. This same parent has also raised concerns with me about the lack of appropriate education support services for students with autism spectrum disorders.

Currently their support needs are categorised based on diagnosis and, if a student with an autism spectrum disorder is identified as needing support, they are only able to access services provided under the general category of communication disorder. It is widely recognised by specialists and parents that the state government needs to create a new category which specifically addresses the particular needs of this group of students. I have also been told that South Australia is one of the few, if not the only state or territory, that does not have an education-specific policy on services for students with autism spectrum disorders. My questions are:

1. When will the Rann Labor government fulfil its election promise of more than three years ago of developing a 10-year plan to provide for forecast growth in the number of people with disabilities and to address unmet need?

2. Why has the report of the review of services for people with autism spectrum disorders not been released, given that it was completed two years ago?

3. When will the report be released?

4. When will the government release its response to the report?

5. Will the minister undertake to hold urgent discussions with the Minister for Education and Children's Services about the need for the state government to develop an education policy for people with autism spectrum disorders, including the need for a separate category of special education service?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for her question. I will refer it to my colleague, the Minister for Families and Communities, and bring back a reply.

GAMING MACHINE VENUES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Gambling, questions in relation to ATMs at gambling venues.

Leave granted.

The Hon. NICK XENOPHON: On 3 March 2005 I asked a number of questions in relation to the limits on ATM withdrawals at poker machine venues and, more specifically, the operation of section 51B of the Gaming Machines Act,

and referred to an answer to a previous question I asked on this matter on 25 November 2003, and answered on 14 September 2004. The minister in his answer to me stated that the limiting of cash amounts is 'currently technologically impossible' and that at the last Ministerial Council on Gambling meeting in May 2004, when the possibility of this was raised, the federal government refused to act.

I refer to a series of articles in today's Melbourne *Age* on gambling and, in particular, a page 2 story headed, 'ATMs must go or have cash limits' says commission. The Productivity Commission's Mr Gary Banks said that governments should consider setting withdrawal limits on ATMs specific to gambling venues or removing them altogether. Mr Banks told *The Age* that only 5 per cent of recreational gamblers reported using ATMs compared to 60 per cent of those with severe gambling problems, and he quoted figures from a nationwide survey that he wrote for the commission in 1999. Interestingly, Mr Banks also comments on the lack of independence of most research into problem gambling, and also the upward trajectory of gaming machine revenue in virtually all jurisdictions.

Mr Banks also said that, although governments have made progress in tackling problem gambling, much more needed to be done. The Victorian Minister for Gaming (Hon. John Pandazopoulos) said that it was possible to redesign ATMs or have withdrawal limits per transaction, but he said that it was a federal and not a state issue. My questions to the minister are:

1. Given the comments of the Chair of the Productivity Commission in the 1999 findings of the commission, will the government take steps to implement the imposition of limits on ATMs, including and in addition to those outlined in the current Gaming Machines Act?

2. Does the minister propose raising such issues relating to ATMs at a federal level and, if so, when?

3 Does the minister disagree with his Victorian counterpart in his reported comments in today's *Age* newspaper that reducing withdrawal limits on ATMs at gambling venues was a federal and not a state jurisdictional matter?

4. What discussions, if any, have been entered into with the federal government by the minister or his office since May 2004 when he says that the federal government refused to act in relation to ATMs?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to my colleague the Minister for Gambling and bring back a reply. Certainly, the honourable member would be well aware that, over the past few years, we have discussed this matter a number of times during debates on the gambling bill. It was not all that long ago that members of this parliament expressed their view on that matter. I will refer the other details of the honourable member's questions to my colleague and bring back a reply.

RAIL, METROPOLITAN TRACKS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about metropolitan rail tracks.

Leave granted.

The Hon. D.W. RIDGWAY: The metropolitan rail network comprises some 222 kilometres of broad gauge track, containing some 296 000 sleepers. Of this number at the last election, there were 20 000 concrete sleepers, 121 000 steel and 155 000 timber. On average, the life expectancy of timber sleepers is 20 years, and 80 years for the concrete and steel sleepers. Concrete sleepers also ensure a much quicker operation and are quieter for all those who live along the line. In the 1997-98 budget year, the Liberal government allocated $3.5 million a year to TransAdelaide to commence a 10-year program to replace all remaining timber sleepers with concrete. My questions to the minister are:

1. How many concrete sleepers, excluding those approved by the previous Liberal government on the Outer Harbor line, have been placed on the TransAdelaide rail network since Labor came to office in 2004, and where have they been placed?

2. When will TransAdelaide be allowed to complete the concrete sleepering of the Outer Harbor line, especially at level crossings and at railway stations where a safety factor is involved? How many timber sleepers currently in the TransAdelaide rail track need replacing now, today or, in fact, yesterday to maintain the rail track safety integrity?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Minister for Transport and bring back a reply. I do find it interesting that the honourable member should be asking a question about infrastructure on the very day that the government has brought down its infrastructure plan announcing such infrastructure projects as the $21 million extension to the Glenelg tramline to North Terrace and $7 million for a major bus and rail interchange near the Marion Shopping Centre (which will do an awful lot for rail travellers) to be completed by the end of 2006. There will also be $65 million for an underpass at the intersection of South Road/Anzac Highway, and $122 million for the South/Port/Grange roads tunnel. There will also be an investigation into extending the Noarlunga rail line to Seaford, with a view to construction during the second five-year period of the plan.

An honourable member interjecting:

The Hon. P. HOLLOWAY: No new infrastructure in three years? What about Adelaide Airport, for example, which will be completed later this year? It was negotiated, built and announced by this government. What about the SEA Gas pipeline, which saved this state from disaster?

An honourable member interjecting:

The Hon. P. HOLLOWAY: No, it certainly was not. The SEA Gas program had not begun. I know, because I was the minister who had to negotiate all the 600-odd easements. If the previous government had its way, it would have been a much smaller, inadequate pipeline. I find it absolutely incredible that members opposite would be whingeing about infrastructure when this government has made the first serious attempt for many years to try to address the huge infrastructure shortage in this state. Certainly, I will see whether the Minister for Transport can go out and count the number of cement sleepers on the line. But what I can say to satisfy the honourable member is that, under this government, there will be major transport infrastructure provision over the coming years, because this state desperately needs it, given some of the neglect we have seen in the past.

GRADUATES, EXPATRIATE

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Premier, a question about the Premier's party time.

Leave granted.

The Hon. J.M.A. LENSINK: An interesting little article in the *Sunday Mail* of 27 March caught my eye. It was entitled 'Premier's party time', with the sub-line '$50 000 to woo expats'. The article reads as follows (and I am happy to table it, for the benefit of the Hon. Bob Sneath, if he would like to so move):

Expatriate South Australian university graduates are being invited to special cocktail parties in Sydney and Melbourne as part of the state government's efforts to promote the state. The two parties next month—projected to cost a combined $50 000—will feature 'great entertainment and plenty of SA's fine wine and food' for the graduates and their partners. . . Several hundred guests are expected at each party. . . A personal invitation from Mr Rann to each graduate and their partner says it will be a chance to meet other graduates and high-profile business people. . . Each evening will feature a number of speakers, including Mr Rann.

The Hon. Caroline Schaefer: Can I go?

The Hon. J.M.A. LENSINK: Yes; we would not mind an invitation. It sounds like they are going to be living it up. On my calculations, if there are 200 guests it would be $250 a head; if there were 300 guests, it would be $167 a head; or if there are, say, 500 guests, that works out to $100 a head. My questions are:

1. What is the cost per head for each of these lucky graduates?

2. How many quotes and how many photos of the Premier are included in the invitations?

3. Why have only university graduates been invited rather than people with specific skills that South Australia has shortages of—for example, police, nursing, child protection workers, child care and aged care workers?

An honourable member: Doctors.

The Hon. J.M.A. LENSINK: Doctors, physiotherapists and trades people.

4. Who are the event managers?

5. Can I have a list of all the subcontractors and beneficiaries involved in this program?

6. Who are the high profile speakers who will be involved in the program?

7. Has the organisation Education Adelaide been involved in any way and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I would have hoped that all South Australians would support the government in its efforts to bring graduates back to this state, to attract the brightest young people to our state.

Members interjecting:

The Hon. P. HOLLOWAY: Obviously they do not. They are laughing. They obviously do not care about the future of this state. In case the honourable member and her colleagues are not aware of it, the shortage of skills is one of the most serious problems facing the country. Even the Prime Minister has identified skill shortages as being one of the most serious potential impediments to economic growth facing this country.

This government has taken some innovative approaches to try to appeal to the best and brightest graduates of other states to ensure we do not face those kinds of shortages here. Of course, what the *Sunday Mail* has highlighted is just one of a number of steps that this government has taken to try to bring graduates into this country. Surely the honourable member is aware of the efforts this government has made, for example, to bring in police officers from the United Kingdom. In fact, the efforts we have made are right across the skills spectrum.

The article in the *Sunday Mail* referred to just one of the more innovative efforts that this government is making to attract the best and brightest to this state. We will keep doing it. We hope, as a consequence of that, our objectives of the state population policy will be achieved—because, if they are not, given the ageing of the population, this state will be in very serious trouble indeed. We need to do everything we can to increase the population of and, in particular, immigration into this state, as well as developing the skills we have within. This government has nothing whatsoever to apologise for in using new and innovative ways of attracting skilled people to this state.

The Hon. J.M.A. LENSINK: As a supplementary question, can the minister also ask the Premier what evaluation of this program will be undertaken and how the government will determine exactly how many people returning to South Australia this innovative program will yield?

The Hon. P. HOLLOWAY: This government evaluates all its programs the best it can to ensure that they are working but, at the end of the day, it will be the statistics that will prove it. This state now has a South Australian Strategic Plan. We would like to think that all South Australians would own the plan.

Members interjecting:

The Hon. P. HOLLOWAY: It is regrettable that people opposite do not do so, but those goals are in the interests of every South Australian. They are not just in the interests of a Labor government: they are in the interests of every single South Australian. Those objectives are out there in the public. It is a challenge for this government to achieve them. The population increase is one challenge, and the government's success or otherwise will be measured by the statistics.

I would hope that no-one would question the objectives. One would hope that those objectives are commonly shared by all South Australians. Whether or not this government is successful obviously will be judged on that, and we accept that, as any government should. But I hope that no-one would question the objectives of trying to reach the goals within the State Strategic Plan. But, if any further information is available, I will bring it back to the honourable member.

COUNTRY FIRE SERVICE MAPPING PROJECT

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question regarding the South Australian Country Fire Service enhanced mapping project.

Leave granted.

The Hon. J. GAZZOLA: I understand that the Country Fire Service has published a series of comprehensive map books covering various regions of the state. Can the minister advise the council of any recent additions to their coverage?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important question and his interest in the matter.

Members interjecting:

The Hon. CARMEL ZOLLO: Yes, I am certain it is of interest to everyone in this chamber. The South Australian Country Fire Service has released another regional map book as part of a series of six books covering much of the settled areas of South Australia. The latest release, which focuses on the southern Flinders Ranges, is the sixth book released in the series. CFS map books covering the Lower South-East, the Mount Lofty Ranges, Kangaroo Island, the Riverland and Murray Mallee, Yorke Peninsula and the Mid North are

already available. Maps in this book cover an area from its northern point at Oraparinna near Wilpena, south over the southern Flinders Ranges, to just east of Hallett in the Mid North region—in total, an area of approximately 32 000 square kilometres.

The detailed maps are printed to a standard scale of 1:100 000 using high quality paper. This will provide an extended life, even with frequent use. Durability is an important feature, given the potential critical need for these maps, often under very difficult circumstances. The map book is an important operational tool for our volunteer firefighters, together with the other emergency services. Emergency services have always had the traditional sheet-type maps. However, they can be cumbersome, often get damaged and are hard to use after frequent use. The CFS books are more user friendly and it is more like using a street directory. This book is not only essential for CFS brigades and other emergency services that work in the area, but also a useful tool for tourists, bushwalkers and other people heading into the southern Flinders Ranges.

As with all CFS map books, this book will be made available to CFS groups and brigades for their operational use. In addition, the book will be available to the general public through a number of map supply stores and camping and outdoor shops. Funds recovered from the sale of this product and all other CFS map books are returned to the CFS enhanced mapping project to offset the cost of producing the next book in the series, thereby keeping the net cost for production to a minimum. The remaining two books in the series are progressing well and are expected to be released later this year.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise whether these map books will be distributed to local councils?

The Hon. CARMEL ZOLLO: I am unaware whether that is the case, but I will certainly give consideration to it and bring back a response.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister indicate whether communities out of council areas that were included in the areas she mentioned will be provided with copies of the maps, as well as their colleagues in local government areas?

The Hon. CARMEL ZOLLO: What the honourable member has said sounds very sensible. I will investigate that matter, as well, and bring back a response.

BUS DRIVERS, EMPLOYMENT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the employment of bus drivers by the private operators of Adelaide's public bus services.

Leave granted.

The Hon. SANDRA KANCK: In February this year the state government announced that Serco had lost half its contracted bus routes to rival operators Torrens Transit and SouthLink. The decision left hundreds of Serco drivers in limbo. Those drivers on the routes that Serco had lost needed to reapply for their jobs with either Torrens Transit or SouthLink. At the time the then transport minister (Hon. Trish White) said she hoped for a smooth transition for the drivers from Serco to the other companies. We now know that many of those drivers have not been and will not be offered continuing employment with Torrens Transit or SouthLink.

Last week my office received a copy of a letter sent to an ex-Serco bus driver from Torrens Transit, which states that they would not be employing him because he is unable to sustain a squat. To add insult to injury, I have been informed that, at the same time these experienced drivers are being ditched, Serco is taking on trainee bus drivers because they can get a subsidy of $7 000 per trainee.

The Hon. J.F. Stefani interjecting:

The Hon. SANDRA KANCK: That is an interesting question. My questions are:

1. What practical effect does 'being unable to sustain a squat' have upon a bus driver's ability to drive a bus?

2. Can the Minister for Transport sustain a squat to the standard required of bus drivers by Torrens Transit?

The Hon. Caroline Schaefer: Will he demonstrate it?

The Hon. SANDRA KANCK: That is a good question: will he demonstrate it to members of the Legislative Council.

Members interjecting:

The Hon. SANDRA KANCK: This is a serious question.

3. How many ex-Serco bus drivers have not secured continuing employment with Torrens Transit or Southlink?

4. How many new drivers will be employed by Torrens Transit and Southlink when they take over the routes formerly operated by Serco?

5. Is the subsidy being paid to Serco for trainee drivers coming from state or federal government coffers?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Minister for Transport and bring back a reply. However, I note that the privatisation of the state's transport industry, which has led to these issues, was not supported at this time by the Labor Party. I would be interested to know the Democrats' view on that issue at the time, but I guess we can soon look that up in *Hansard*.

Members interjecting:

The Hon. P. HOLLOWAY: It is very easy to break an egg; it is not so easy to put it back together, as we have seen with electricity, for example. It is very easy to break it off but, once you have scrambled the egg, it is not so easy to put it back together again.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am talking about the Electricity Trust.

The Hon. R.I. Lucas: No; we are talking about the buses.

The Hon. P. HOLLOWAY: I know. I used the example of electricity as well. However, in relation to this, once you make these arrangements and change the practices, reversing them becomes a completely different question entirely.

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: Who brought these in? Who is responsible for these? I think the honourable member ought to contemplate that. I will refer the question to the minister who has responsibility for this matter and bring back a reply.

The Hon. R.I. LUCAS: I have a supplementary question. Can the minister confirm that he and his government chose to continue what he termed the privatisation arrangements in relation to public transport in South Australia?

The Hon. P. HOLLOWAY: I just indicated that; obviously, the Leader of the Opposition was not listening. I said it is very easy to break an egg but not easy to put the pieces back together.

POLICE CHECKS

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Education and Children's Services, questions about police checks.

Leave granted.

The Hon. A.L. EVANS: The government has recently introduced new measures that all student teachers in South Australia, their supervisors and others who enter government, independent and Catholic schools will be required to undergo a police check before they are allowed to teach in South Australian schools. I understand that, if anything untoward is brought to light, representatives from the government, independent and Catholic schools and the universities can meet to consider the student teacher's suitability. It is my further understanding that each case will be dealt with on a case by case basis. Will the minister provide an update on the work currently being undertaken to require after school care workers to undergo a police check, particularly in relation to ensuring that South Australia is complying with national standards? If not, why not?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question. I will refer it to the Minister for Education in another place and bring back a reply.

The Hon. KATE REYNOLDS: I have a supplementary question. Would the minister, in her response—or his response, if it is the Minister for Families and Communities who responds as part of the Keeping Them Safe program—indicate what action has been taken in relation to all out of school hours care programs—not just after school programs—including vacation care programs?

The Hon. CARMEL ZOLLO: I thank the honourable member for her supplementary question. Again, I will refer it to the minister in another place and bring back a reply.

The Hon. J.M.A. LENSINK: I have a further supplementary question. Can the minister also give a commitment to come back to this place with a response as to why some student teachers were given two days' notice of requirement of clearance and investigate whether students were, in fact, given an adequate amount of time before they commenced some of their practicums?

The Hon. CARMEL ZOLLO: Again, I will refer the honourable member's question to the minister in the other place and bring back a reply. From personal experience, it was certainly not the case in my family; very adequate time was given.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister confirm that all ethnic language schools are included in the process?

The Hon. CARMEL ZOLLO: Again, I will refer the honourable member's supplementary question to the minister in the other place and bring back a reply.

GOVERNMENT CHARGES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, a question about increases in government charges.

Leave granted.

The Hon. J.F. STEFANI: In an article which appeared in *The Advertiser* of Monday 28 February 2005, it was stated that, in an unprecedented move, the Premier (Hon. Mike Rann) had personally written to the Governor of the Reserve Bank, Mr Ian Macfarlane, urging him not to raise interest rates. In pushing the case for South Australian home owners and businesses, the Premier said that the state had been recording strong economic growth. He said:

> We don't want those efforts snuffed out by a heavy-handed slug in interest rates.

In view of the exorbitant increases in land tax charges, sewerage rates, emergency service levies, stamp duty and other state and local government charges, my questions are:

1. Will the Premier direct the Treasurer to reduce the unfair slug imposed on all home owners and businesses by his government through a policy of increasing the paper value of all properties?

2. Does the Premier agree that the huge increases in government charges, which are well above the CPI, will eventually snuff out the economic growth of our state?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The honourable member first of all asks about the letter the Premier sent to the Governor of the Reserve Bank. It is rather interesting that just this morning the Reserve Bank announced that it will not increase interest rates, and I am very pleased to hear that. But the point the Premier was making—and it needs to be made to the Governor and the Reserve Bank Board—is that so many of the economic decisions made, particularly by the Reserve Bank, are made for conditions in Sydney and Melbourne, in particular, but not for conditions in the regional areas of Australia.

It is often pointed out that we do have two, or perhaps even more, economies within this country. It is particularly so at the moment. What happens in the Sydney property market should not necessarily impact on the conditions prevailing in the rest of the country. I think it is entirely appropriate that the Premier should reinforce that point, and I would hope that other state premiers would do likewise. In any event, I am pleased—as I am sure are most South Australians—that the Reserve Bank has not chosen to further lift interest rates at this time.

In his question, the honourable member went on to talk about land tax. He claimed that there had been increases in land tax rates. In fact, under this government, there has been a reduction in land tax. There has been no movement in land tax rates, until the reduction. The honourable member would be well aware that in the last decade there have been only two reductions in land tax, both under a Labor government. There has been one increase in land tax rates, or effectively an increase: it was a reduction in the threshold under the Brown or Olsen government. Land tax revenues have increased because valuations of properties have increased, and that has now been addressed by the government, as the honourable member would well know.

In his question, I think the honourable member referred to the policy of a paper value increase. There is no government policy. The fact is that property values have increased: it is not a paper increase. You have only to look at the values of properties to know that they have in fact increased very significantly over the last few years. The government has addressed that issue of rapidly increasing property values with the reductions it has recently announced. I believe that adequately answers the matters that have been raised by the honourable member.

The Hon. NICK XENOPHON: Has the government ruled out any substantive inquiry into land tax or any further land tax relief between now and the next election?

The Hon. P. HOLLOWAY: I am not going to comment on what may or may not be done in terms of future economic policy, and it would be not only unprecedented to do so but it would also be grossly irresponsible, given that there are, of course, potential implications that would come from speculating on such decisions.

DISABILITY SERVICES

The Hon. KATE REYNOLDS: I am indebted to the Hon. Ian Gilfillan for giving me his question. I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Disability, a question regarding disability funding.

Leave granted.

The Hon. KATE REYNOLDS: Earlier today I attended, as I mentioned earlier, the picnic in Elder Park organised by the Dignity for the Disabled Coalition, and the minister spoke to just over 1 000 people assembled in the park, happily picnicking on a sunny day. He mentioned specifically in his speech that additional funds had been made available to the Moving On program, which members will remember I have asked numerous questions about in this place previously. I have received a couple of answers, but mostly they have been very unsatisfactory.

The minister in his remarks suggested that all of the students who had left school last year were able to access Moving On programs for five days a week this year. While the minister was speaking I was speaking with a parent, standing just behind the minister, and she was most angry and most upset at his remarks. I also spoke to a number of other parents earlier in the morning whose children are not able to access programs now, and at this stage they are not confident that their children will be able to access programs in the future. The one thing that all of these parents have in common is that they live in country areas. The minister in his comments did not make it clear about whether he was referring only to metropolitan services or whether, in fact, services were available to all of those students who exited school last year and who live in country areas. In fact, I do not believe that he made any comment on services in country areas. My questions to the minister are:

1. Will he please clarify the availability of Moving On services, or very similar services, for students in country South Australia?

2. Will he undertake to meet with parents from country areas who have previously and are still expressing great dissatisfaction about the boundaries that the Disability Services Office is using to calculate the figures upon which they report?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to my colleague the Minister for Families and Communities and bring back a reply.

METROPOLITAN FIRE SERVICE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Metropolitan Fire Service training department.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that the Metropolitan Fire Service has suffered from a lack of officers willing to serve in its training department for most of the past 12 months. This has resulted in the forced secondment to the training department of long-term officers, many close to retirement. While these MFS employees have all had vast experience in firefighting, many consider that their strengths were not as instructors but were much better placed in the field. Attempts to overturn these secondments were apparently unsuccessful, and the officers have been forced to remain in the training department against their wishes. As a result, the MFS is relying on personnel who, by their own admission, have little faith in their ability as instructors. My questions are:

1. Will the minister indicate whether the previous longstanding MFS training department instructors left these positions as a result of their judgment that a recruit was unsuitable for the fire service being overturned by senior management?

2. Will the minister confirm that to entice reluctant officers to serve in the training department they have been advised that 12 months service in that department will result in their being credited with 24 months service?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I am unaware of those instances about which the honourable member refers. I will get some information and bring back a full response for the honourable member.

STATE INFRASTRUCTURE PLAN

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Infrastructure, a question about the State Infrastructure Plan?

Leave granted.

The Hon. T.J. STEPHENS: The State Infrastructure Plan was released today. It was short on detail and what details it had were primarily motherhood statements. Posted on the web site for this plan is a list of only nine projects and, of those, six are re-announcements or rehashing of Liberal projects. One is an announcement of a feasibility study, and none of the projects looks like getting under way before the election. My question is: given that the plan goes to 2015 and the government set a target of tripling exports by 2015, does the minister believe that improving the north-south corridor, a Marion bus and rail interchange and extending the tramline a mere 1 100 metres will be sufficient to treble exports?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Certainly, the State Infrastructure Plan that was announced is far more than just those particular announcements. I suggest that the honourable member read the entire document.

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: I suspect that the honourable member read the press release. He should read a little more than that. We have seen all sorts of negative comments from members opposite. We had the extraordinary comment by the shadow minister for transport who criticised the tram link to North Terrace, which has been talked about for decades. This government is finally doing something about it, as well as upgrading trams. The trams on that track are 70 years old, for heaven's sake. They were introduced in 1929, which makes them even older. They must be 76 years old. That is how long it has taken to get around to upgrading them.

The ridiculous comment from the shadow minister for transport was his suggestion that this would do nothing to link up transport. I would have thought that the great deficiency in transport in this city for decades has been the fact that the tram ends in Victoria Square and the rail line ends at North Terrace. At last those two services will be linked (which is all about integrating transport), yet this shadow minister for transport is criticising the need for integration. That is how dopey some of these people opposite are. To answer the question about what this will do with respect to exports, most of these projects are all about improving the efficiency of our road network. South Road has become totally congested.

The new tunnels and overpasses along that major intersection will be very beneficial for industry and, indeed, exports. Of course, there is also the project at Outer Harbor, including the bridges which were announced the other day and which, of course, are a key element and very expensive.

Members interjecting:

The Hon. P. HOLLOWAY: Members opposite are laughing about it. What do they want? What is happening is that we are now starting work. All the work, planning and contracts have been done. We are also—

Members interjecting:

The Hon. P. HOLLOWAY: Members opposite forget the fact that when we came into government one of the first things we did to save $20 million was to resite the location of the grain terminal, because it had been so ill-thought out and so cobbled together under the previous government that it had not even found the best site for it. All that has been addressed. These major projects and, indeed, the whole thrust of the infrastructure strategy released by the government will do an awful lot to improve the export of goods from within this state.

EYRE PENINSULA BUSHFIRES

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I seek leave to make a ministerial statement on the assistance that state and local governments are giving to the people of Eyre Peninsula to help with rebuilding and repairing properties affected by the January bushfires, following a question asked yesterday by the Hon. John Dawkins.

Leave granted.

The Hon. P. HOLLOWAY: Following the fires, state and local government immediately reviewed all the fees that would normally be payable on development applications with a view to minimising the costs to victims of the bushfire when rebuilding destroyed or fire-damaged homes and buildings. The development application fees collected by local councils are prescribed in the Development Act regulations. Of the building assessment component of these fees, a levy of 4 per cent of the prescribed fee is payable to the Minister for Urban Development and Planning. Councils and private certifiers do not have the ability to waive or reduce this component of the fee. With regard to this 4 per cent levy, the government waived the requirement for councils and private certifiers to forward the levy in relation to assessments of fire-damaged or destroyed buildings as a consequence of the fire. In addition to this exemption, the government is not requiring that the Construction Industry Training Fund levy be paid by the bushfire victims.

I also understand that councils in the affected areas have reduced their development application fees. I am advised that the local council is, quite correctly, treating replacement buildings as complying development, which will not only expedite the processing of applications but will also mean that a planning assessment fee will not be payable at all. As well as exempting fees, the government is also pleased to release a fact sheet containing important information on how to make homes more resistant to bushfires. It contains information about the siting of homes, access tracks, water supplies and the most appropriate building materials to use to improve fire resistance.

This information can not only help to save the lives of residents and firefighters as well as protect valuable possessions but it can also save buildings and, hence, the cost to property owners in the aftermath of a bushfire, while helping the environment. It is hoped that these important initiatives will make the process of rebuilding easier for those affected by the Eyre Peninsula bushfires and provide ongoing support to help prevent further disasters of this nature. I also table two of the documents (which have been circulated) to which I have referred in the statement.

MATTERS OF INTEREST

INTERNATIONAL WOMEN'S DAY

The Hon. G.E. GAGO: I rise today to inform the council that I recently attended the annual International Women's Day march, which is now 30 years old and which was held on Saturday 12 March. Hundreds of women celebrated this occasion by marching through Victoria Square to Barr Smith lawns, where we enjoyed speakers, entertainment and great food.

International Women's Day is held annually on 8 March, because on this day in 1908 women workers protested in the streets of New York against the appalling working conditions and low wages in the textile, manufacturing and domestic service industries. The main theme for this year's celebration was to remind women of the importance of our pro choice gains, that is, those gains that have involved women having greater control over their own bodies in relation to family planning, conception, contraception, childbirth and pregnancy termination. These were hard-earned gains, and we were reminded how important it is that we do not return to the draconian and dangerous practices of the past. One of the banners on the day put it very simply. It stated, 'If you're against abortion don't have one.'

Women from all over the world are continuing the struggle of their forebears to achieve fair and more equitable pay and working conditions. Every year International Women's Day presents us with a good opportunity to celebrate the gains we have won and, more importantly, to highlight the battles that we still have to face. One of the key battleground issues that shows no sign of improvement nationally, despite a greater number of women participating in the work force, is the gap that exists between men's and women's wages. A report recently released by the Victorian government found that the pay gap between men and women has basically remained the same since the 1980s. Statistics collated by the ACTU show that average women working full

time are paid 15 per cent less than their male counterparts and earn about $150 less per week than men.

Pay and equity between the sexes is a product of women traditionally having low levels of unionisation, the high percentage of women in part-time and casual jobs and the large concentration of women in occupations such as child care and industries such as retail, where their skills and expertise are afforded lower value than employees of industries and occupations where men dominate. Working mothers also face the barriers of paying for child care and inflexible working arrangements when working full-time.

Of course, International Women's Day takes on greater importance this year given the Howard government's proposed industrial relations changes which will adversely affect women in Australia's workplaces. One of the many ways in which Howard's so-called reforms will widen the pay gap between men's and women's earnings is the proposed abolition of the skills-based career structure of minimum wages to make way for a single minimum wage rate. In the past, skill-based awards of pay have been critical in women making an application to the Industrial Relations Commission to have work comparable to that of men paid equally.

Another area of particular concern to women is Howard's proposed changes to unfair dismissal laws. Women make up approximately half of the more than 3 million people who will be affected by this legislation, and Howard's proposal to exempt small businesses with fewer than 20 employees from unfair dismissal laws means that anyone can lose their job without a reason and without notice. This legislation will mean that employers can get away with bullying and harassment, with little recourse for employees (especially women, who are predominantly the target of such behaviour) to take action against workplace discrimination.

The federal Minister for Workplace Relations (Hon. Kevin Andrews MP) is quoted as saying that the coalition's industrial relations reform agenda will deliver greater flexibility to families who are struggling with work and child care responsibilities. But 'flexible' is not how I would describe current workplace practices which see one third of all working mothers who are employed casually having no access to paid days off if one of their family members is sick and no paid leave to take an annual family holiday. These statistics clearly show that the current system does not provide flexibility to accommodate working mothers to meet their family responsibilities.

I am completely dismayed by the coalition's proposal to replace the Australian Industrial Relations Commission's role in setting the minimum wage, and the federal government simply cannot be trusted to deliver a decent working wage to low income earners. We would be about $2 200 worse off per year if the coalition's opposition to the minimum wage had been successful. Unfortunately, I have run out of time but, as members can see, there are still many challenges ahead of us and many challenges for women.

PARLIAMENTARY PRIVILEGE

The Hon. T.J. STEPHENS: I rise today to highlight the appalling attack on democracy that the Premier and his henchmen have sought to perpetrate on the people and the parliament of South Australia—the parliamentary privilege bill. First, I want to thank the Independents and the Democrats in this council for joining with the Liberal Party in opposition to this dangerous precedent. Their resoluteness has forced the government to back down for the moment, and the rich traditions and principles which we as parliamentarians hold dear will now be protected. The government has sought to introduce the most draconian, flawed, unprincipled and probably unconstitutional piece of legislation in this state's history. The bill sought to abolish the cherished principle of parliamentary privilege and the separation of powers from which the authority of the deliberations of the parliament is essentially derived.

The PRESIDENT: Order, the Hon. Mr Stephens! I am taking some advice. I thank the honourable member for his indulgence. There was a question of legitimacy as to whether this matter could be debated in the council because the matter is on the *Notice Paper* in another place. The point was made about pre-empting debate. I rule that the matter is not before this council, and the usual convention is that the member is allowed to make comment on the bill. Is the member making comment about the content of the bill or the processes of the bill?

The Hon. T.J. STEPHENS: The processes, I believe, Mr President.

The PRESIDENT: I will allow you to continue. You are entitled to address this matter because it is not on the *Notice Paper*. I think all members are well aware of the sensitivities of the situation, and I am certain the Hon. Mr Stephens will take that into account in his contribution.

The Hon. T.J. STEPHENS: Thank you for your wise counsel, Mr President. Privilege allows us to debate without fear or favour the merits of legislation, the findings of reports, the appointments of certain public servants, the sanctity of the relationship between members of parliament and their constituents and to discuss pertinent issues of the day in such a way that it allows us to get to the nub of the issue without the cluttering of legal jargon.

That the government has sought to remove privilege is not surprising. It is a government that was born of secret, dirty deals, and it is a government that lives in the shadow of secrecy and untruths. There was a compact with the member for Hammond and there were the murky undertakings of the Premier's then senior adviser, Randall Ashbourne, who, it is alleged, may have been acting under instruction. Of course, who can forget the corrupting of the members for Chaffey and Mount Gambier when they abandoned their conservative beliefs and joined this socialist government? There are secret media briefings where the government can deny any attributed comment, such as its extraordinary claims in Monday's media that the Prime Minister's office had smiled upon the legislation it introduced—but the government back-pedalled away from that claim yesterday.

The member for Hammond was correct when he compared the actions of this government to those of the Nazis. Even the 1933 Enabling Act, from which the Nazis derived their power, had a sunset clause. This legislation does not even have that. The reason is that at its heart the Labor Party cannot govern through the strength of its argument or the correctness of its position. It has always resorted to coercion to achieve its aims. It was the Labor Party that sought to nationalise the banks, and it was the Labor Party that first introduced conscription. The fact is that at the centre of the Labor body beats a totalitarian heart.

The fact is that the Premier entered into a deal with the former speaker to secure power. It was an unholy alliance that suited the Premier at the time. Now that the same person who brought them to power raises serious allegations about the alleged misconduct of a current member of the parliament, allegedly a Labor minister, the tough on crime rhetoric seems

to have disappeared. Now we must protect the reputations of people and not subject them to undue investigation. I do not know whether the allegations are true. I will wait to see what the police investigation finds before making up my mind. What I do know is that the government has prejudiced the case and sought to silence any dissenter from its world view. It appears that the government has two standards for alleged criminals: one for the public and one for in here.

The Liberal Party has always been opposed to the secret deal that delivered the government power, but the ALP has changed its position on a strange premise. The government says that there is no evidence of abuse and, therefore, the former speaker brought the parliament into disrepute. How do we know what the police have until the investigation is completed—or is the government starting to monitor the ongoing investigation? The government has sought to imply a sense of innocence over the person at the centre of these specific allegations, which date back to 2003. It is almost as though the government is trying to dog whistle to the police what the government's judgment is. Yesterday, when it was defending the legislation, the government's spin doctors were saying that it was designed to protect the reputation of innocent people. The Premier said in parliament—and it was later broadcast through the media—

The PRESIDENT: Order! You cannot quote what was said in parliament about a matter that is before it.

The Hon. T.J. STEPHENS: In the media yesterday, the Premier was quoted as saying:

> There's nothing to stop anyone from doing anything if it's true. I mean, if it's true, then there's no problem with defamation, no problem for anyone making the allegation. But the thing is, there's a hell of a difference between a smear and the truth.

The clear inference is that the Premier does not believe the allegations. If that is not interfering, then I do not know what is. The Premier did not seem so concerned about the reputations of public servants such as Kym Pennifold or Kate Lennon when it suited him to attempt to destroy them for nothing more than his own political ends.

The Hon. R.K. SNEATH: I rise on a point of order, sir. An ongoing Legislative Council committee is still investigating that matter. It has not reported to parliament on the matter.

The PRESIDENT: The matters were discussed in parliament. They are the subject of a select committee, and any of the deliberations or matters before that committee are not to be commented on until such time as the committee has reported. The honourable member will need to take that into consideration.

The Hon. P. HOLLOWAY: I have a point of order, sir. The honourable member was making allegations against the Premier, which were false. I know you can make false allegations in this chamber, but it was alleging improper motives against the Premier. Therefore, I suggest it is against the standing orders of this parliament to make them, unless it is done by a substantive motion. But the allegations were quite false that the honourable member made.

The PRESIDENT: If these are accusations of impropriety, my recollection of what the honourable member was saying was that he had quoted the Premier in the press as making some statements which can be interpreted by some people as improper motives. I do not think he actually—

The Hon. P. HOLLOWAY: What I heard him say, Mr President, was that the Premier set out to—and I am not sure of the exact words—malign those two people, which I suggest is not only false but also breaches standing orders.

The Hon. T.J. Stephens: You don't know what I said.

The Hon. R.K. Sneath interjecting:

The Hon. T.J. Stephens: He doesn't know what I said.

The Hon. R.K. Sneath: Everything you have said so far is unparliamentary.

The PRESIDENT: Order! The Hon. Mr Sneath will not make that decision. It will be a decision accepted as the responsibility of the chair, and I accept that responsibility. These are sensitive matters, and some people will take offence at some things, but my personal recollection was that the member was quoting from what the honourable Premier was saying outside of the house. I made it very clear that he was not to quote from the proceedings of the house—the standing order is quite clear on that. He took note of that, I understand, and made his comments of a nature relating to matters which were in the public arena. I did not hear him attribute improper motives; he may have commented on the subject, but I did not hear him make an improper implication. If he does, I will stop him and he will have to resume his seat. I will allow you to continue, Mr Stephens.

The Hon. T.J. STEPHENS: Thanks, Mr President. The Peter Lewis speakership was the government's own creation, which has now resulted in a crisis for which the government's remedy is to introduce special emergency legislation that seeks to destroy the foundations of democracy under the auspices of protecting the public good. Dictatorships, throughout history, have often started out in the interest of protecting the public good.

Honourable members: Hear, hear!

Time expired.

CIRCLE OF FRIENDS

The Hon. J. GAZZOLA: The plight of refugees in the Baxter Detention Centre has been brought again to our attention by the federal government's decision to release some asylum seekers into the community on temporary visas. The Australian story of many of these forgotten people who have been incarcerated for an average of four years is sadly in contrast to that of an asylum seeker from another country in another time. In 1973, Jorge Galleguillos-Pozo, through the assistance of the Australian ambassador to Peru, escaped from Chile and the clutches of the Pinochet regime to be welcomed in Australia; as I should have also stated, a different and compassionate government. To bring the life of Mr Galleguillos-Pozo up to date, we learn from a story in *The Advertiser* that he is now the executive officer of Disability Action Incorporated and that, in 2003, he was awarded a Centenary Medal for service to Australian society. Mr Pozo was given a chance by one Australian government whose concerns were those of compassion and a sense of responsibility to the world's abused and homeless.

The contrast in attitudes and action between federal governments is clear in the Howard government's hounding of the Bakhtiaryi family, now back in Afghanistan from where they escaped. We know for a fact their country of origin, which has been steadfastly denied by the federal government. We also knew of the family's hopes and the support provided by the school, church and community that befriended them. We know some of the stories of other long-term detainees in Baxter Detention Centre and, like the case of Cornelia Rau, it must make us wonder about the health of these people and shake our heads about what recourse to justice these people have. If we go by the deliberately chosen isolation of centres like Christmas Island, Nauru and Baxter,

and before that, Woomera, and clothe bad ideas in the comfortable language of 'detainees' for 'held without trial', or 'suicide' and 'self harm' for 'inappropriate behaviour', the political spin used by the federal government for morally concerning practices and consequences, we can only assume a lot is being hidden from the public eye and from the hand of justice.

Surely the incarceration of Cornelia Rau makes us realise that we are facing more tragedies in the making. The Howard government, so clearly bankrupt in its professed policy for the legitimate rights of these individuals, has now sought to present the façade of concern.

Some federal Liberal backbenchers flagged their fears and concerns over the injustice of past policy and the moral bankruptcy of Liberal wedge politics on mandatory detention. What do these beneficiaries of Liberal generosity receive under the Removal Pending Bridging Visa scheme? Very little, as is best summed up by Amnesty International, which stated:

> . . . asking people to give up some pretty fundamental rights to take up the visa.

It went on to state:

> It doesn't do anything for the vast majority of people who've been there for five or six years.

In contrast to the Minister for Immigration's claim of selfishness, her description of those who protested outside her home over the misery and injustice faced by these detainees, we have selfless acts by groups such as the Circle of Friends, who voluntarily provides support and assistance to asylum seekers in Baxter and assist detainees released into the community. There are some 50 Circle of Friends groups in Australia, mostly concentrated in South Australia, with one (No. 38) clearly able to attest to the shocking prison conditions—because these places are like a prison—and the deteriorating physical and psychological health of detainees.

In closing, I thank Yvonne Allen and Dr Wendy Rogers, Associate Professor of Medical Ethics and Law at Flinders University, and all members of the Circle of Friends for their compassionate help, assistance and support for these neglected detainees.

MULTICULTURAL COMMUNITIES COUNCIL OF SA INC.

The Hon. J.F. STEFANI: Today, I wish to speak about the Multicultural Communities Council of South Australia Inc. This organisation was established as a result of a merger of two former organisations, known as the Ethnic Communities Council of South Australia and the United Ethnic Communities Council of South Australia. I was pleased to be involved in facilitating the merger of the two organisations and in suggesting that a new name should be adopted to reflect the multicultural and diverse nature of the various associations which represent the membership of this new organisation.

On 15 March 2005, at a presentation ceremony held at the Latvian Hall in Wayville, I was also honoured to be amongst the recipients of a FECCA award for services to the community and to multiculturalism. The awards were part of the silver anniversary celebrations of the Federation of Ethnic Communities Councils of Australia. The Multicultural Communities Council of South Australia (which is known as MCC) was established to provide its members with a high level of policy advice. It is an umbrella organisation, reflecting and representing the diversity of our community, and its aim is to support a prosperous and harmonious South Australia. In its role, the MCC is a strong advocate for the various multicultural communities to the government and to other institutions by promoting access and equity, as well as the sharing of social resources for the equitable benefit of the community at large.

The MCC is also involved in developing positive social values and important network connections, especially in the social and business sectors across the various groups and associations. Its charter includes the promotion of a society in which our public institutions reflect the diversity of our community by utilising, wherever possible, the individual talents of our peoples, regardless of their background. The MCC provides a range of services to meet the needs of its members, and it is involved in raising public awareness on multicultural issues.

During the financial year 2003-04, the MCC received funding for the following numerous projects:

- the Drug Prevention Program, funded by the Department of Health and Ageing;
- Sharing through recreation, Office for Recreation and Sport;
- Family and the law, Legal Services Commission;
- Scoping Project, Meals on Wheels;
- Working across cultures: A guide, Multicultural Aged Care and HACC;
- Youth Leadership Training Course, Inner North East Youth Services;
- Falling Together—New Initiative Youth Grant, Office for Youth;
- Gambling, Let's deal with it together, Relationships Australia.

In addition, the following ongoing programs conducted by the association have received funding:

- To cover core funding functions, the South Australian government;
- Community Visitors' Scheme, Department of Health and Ageing;
- Transport Program, Home and Community Care
- Reconnect, Department of Family and Community Services
- Link Program, Education Adelaide;
- Best Advice, Department for Families and Communities.

Like other peak organisations, the MCC has a strong membership base which continues to grow and, through the hard work of its dedicated staff and volunteers, it has achieved significant progress in many areas. I take this opportunity to express my congratulations to Mr Ron Tan OAM, the president of the MCC, together with Dr Ian Harmstorf OAM, treasurer, and Ms Vivien Hope, the executive officer of the MCC, for their dedication and hard work. I also extend my appreciation to the members of the management committee and the many volunteers who are involved in the ongoing success and achievements of the Multicultural Communities Council of South Australia, and I wish them all continued success for the future.

PARLIAMENT, MINOR PARTIES

The Hon. IAN GILFILLAN: I wish to indicate to the chamber the extraordinary value of having successful minor parties elected to the parliaments of Australia. It can be emphasised in various ways, but I do reflect on observations

made by minister Rory McEwen, who gave the opening address at the Democrat Rural Forum at Mount Gambier. I assure the council that that forum was at no cost to the taxpayers of South Australia; it was a representative of the parliament of South Australia for the issues and concerns of the people of Mount Gambier; and it was a true exhibition of democracy moving around the regional areas.

However, significantly, Mr McEwen indicated how the abuse of democracy can occur when one party holds control of both houses of parliament. He indicated that, in the 1997 election, 22 Liberals and 3 Independents were elected to the assembly. On 17 February, the then premier Mr Olsen called the Independents into his office at 1.20 p.m. and told them that at 2 p.m. he would be announcing the sale of ETSA. At that briefing Karlene Maywald and Rory McEwen indicated that they would not support it, while Mr Mitch Williams indicated that he would.

The Liberal Party was actually being briefed at the same time, and that was not released until the time of the announcement at 2 p.m. The ETSA sale decision was made by Mr Olsen, Mr Ingerson, Mr Lucas and Mr Griffin. With these four, only one more person was needed for them to have a majority in cabinet. This would mean that it would then be supported by the outer cabinet, and cabinet solidarity would mean that it was passed by the party room.

This is an excellent example, because that brokering of a promise was threatened by the upper house because the government of the day did not have the numbers to pass the necessary legislation, until two members of the then opposition changed their allegiance and position and supported the government. What is looming in Australia is the control of both houses of parliament by one party in Canberra. We have seen the threats—in fact, the abuse—of a unicameral system in Queensland, where the then premier, Joh Bjelke-Petersen, passed significant industrial relations legislation through that chamber in 20 minutes.

The public of Australia should realise—and in our case, of course, we are talking about South Australia—that our guarantee of democracy is not a commodity that we can rely on unless the composition of our parliament is such that no party has an overall majority. Unfortunately, unlike the Americans, our party system is very disciplinarian. We rarely see members of a major party breaking ranks and voting differently to their colleagues. If they do, the penalties are very high in both the ALP and the Liberal Party. Where there are critical votes, of course, the members of both parties are ostensibly locked in.

The Democrats have prided themselves, with some justification, that we do not have that party discipline structure in place, and there have been occasions, even in this chamber, where we have voted separately from our colleagues.

It reflects on the style of the American parliamentary system where there is not the rigid lock-in position of Democrat and Republican and, because of that, there is this democracy—certainly not perfect—in which an issue is debated at length and constructively in the houses of parliament with no guarantee that the executive of the day (as in the case of America; or, if it were translated to Australia, the government of the day) would be able to railroad issues through the parliament. The media put scant credit on the value of minor parties in our parliament.

In fact, it is fair game to ridicule us. It is, I think, a very irresponsible game that they play. They have not reckoned on what would be the consequences if, with no representation of minor parties, either of the major parties held the dominant position. In the federal parliament we have the ironic situation where a minor party (the National Party) is locked into the party of the day. Fortunately, we do not have that in South Australia. However, if we lose minor party representation, we lose democracy in South Australia.

PORT AUGUSTA

The Hon. A.L. EVANS: A few days ago an Aboriginal woman set out by vehicle from Port Augusta with her two sons. Her plan was to drive straight through to Adelaide as an urgent family matter required her attention. At about 6.45 p.m. she was heading towards the town of Crystal Brook and the vehicle's headlights cut out. She immediately pulled over to the side of the road. Soon after a vehicle travelling in the same direction pulled up to offer her assistance. Given the situation, the couple offered to escort the traveller to their home in Crystal Brook. Once home the lady offered the visitors refreshments and, much to their delight, the two boys were given the use of the couple's PlayStation.

At the same time the lady's partner worked on the vehicle. Unfortunately, he was not able to repair the fault. It was now 10 p.m. and the lady had to make a decision as to where she and her boys would sleep for the night. A member of the Uniting Church in Port Augusta, the Aboriginal lady asked to be escorted by the local police officer to the Crystal Brook Uniting Church manse. The Uniting Church pastor, Jan Reynolds, happily provided overnight refuge for the Aboriginal lady and her sons. The lady said that the pastor welcomed her and her sons with open arms.

Early the next morning she and her family continued on their journey to Adelaide. Unfortunately, her troubles were not over. A short distance from the township of Snowtown one of the tyres of her vehicle punctured. She then regretted not heeding the instruction of her husband to put a spare tyre into the boot of the vehicle before leaving Port Augusta. Her only choice was to walk to the township of Snowtown with her boys to the local service station for assistance. A short distance up the highway they spotted a vehicle parked on the side of the road.

She approached the gentleman and explained her dilemma. He happily gave them a lift to the Snowtown Mobil roadhouse. A call was then made to the AGF mechanic who subsequently sent Andrew Gurr around to pick up the lady. He took her to her vehicle, repaired the tyre and, as an act of kindness, provided a spare tyre. He said that she could pay him when she was next in town or she could forward the money to him at a later date. While the mother was with the mechanic the roadhouse staff kept a watch on her boys. I am pleased to report that, after a much needed break in the township of Port Wakefield, she travelled to Adelaide.

The lady to whom I have been referring is a significant leader in Port Augusta. She takes every opportunity to work with the local community and civil leaders to address issues through a spirit of reconciliation. With a population of just under 14 000, Port Augusta is one of our state's most important regional cities. It was reported this week that a delegation representing Port Augusta's indigenous community will meet with the government to discuss recent events in the community they say have heightened racial tension in the town. The group hopes to find a peaceful resolution.

In recent years, both Aboriginal and non-Aboriginal leaders of the Port Augusta community have endeavoured to

initiate activities and programs to build a safer community for all members. The acts of kindness extended to the Aboriginal woman and her sons on their recent road trip reminded me of the goodwill that is regularly extended to and by Australians without fanfare. I would like to take this opportunity to encourage those in positions of authority and influence in Port Augusta to resolve to extend kindness, together with just and sensible solutions, to matters that are currently causing tension so that all members can conduct their lives in a safe and respectable community.

PARLIAMENTARY PRIVILEGE

The Hon. D.W. RIDGWAY: I would like to start by saying that the Liberal Party does sing today from the same hymn book, although it has not been a coordinated strategy for me to cover the same topic as one of my colleagues. Today I rise to indicate disgust with the way in which the ALP has treated this parliament and its fellow parliamentarians. The Parliamentary Privilege (Special Temporary Abrogation) Bill is a shameless attempt to subvert justice and gag members of parliament. In the words of the Attorney-General, the bill sought to suspend parliamentary privilege 'to temporarily remove any protection arising from parliamentary privilege for certain allegations of criminal sexual misconduct or related criminal misconduct if made in the course of parliamentary proceedings'.

The Attorney's introduction says it all in relation to this bill that was designed to gag members of parliament in relation to the allegations raised by the member for Hammond. The Premier was hoping that the bill would go through so that it would take the heat off the Labor Party, and he wants all members of this chamber and the other place to forgo their right to voice accusations in a medium that prevents legal action to ensure that happens. The Liberal Party and the Independent members of this chamber—

The Hon. R.K. SNEATH: I rise on a point of order, Mr President. It is obvious that, in his contribution, the honourable member is referring to the contents of the bill, which is still on the *Notice Paper* in the other house. This should not be happening.

The PRESIDENT: This point of order is the same as the point of order in the last contribution. It is very clear. We have two houses of parliament. The direction that I gave to the previous speaker on this subject was that he was not to quote from the proceedings of a matter that is before either this or the other house. The honourable member can talk about the matter, but I will be listening very closely. If there is any quoting of the proceedings from the other house, I will have to stop him and he will be asked to resume his seat. The Hon. Mr Ridgway will take that into account when he makes his contribution.

The Hon. D.W. RIDGWAY: Thank you, Mr President. The Liberal Party and Independent members of this chamber have not been cowed by the Premier or any of his bullying ministers. The Premier and his spin doctors have manufactured the media almost daily in an attempt to take the heat off the real issue. The Attorney-General claimed in *The Advertiser* today that he fears for the two police officers and the serving Labor member, as well as the former Liberal member, despite the member for Hammond's assurance that they would not be named. The bill is a last ditch effort to pervert another scandal made by a government that has been plagued by scandal after scandal since its inception—the sly deals that won it government in the first place; the Randall Ashbourne affair; the hidden funds affair and the list goes on.

The government has launched an unprecedented attack on the fundamental elements of democracy and has, in fact, breached the standing orders of the other place which state that members cannot reflect unfavourably upon other members. However, that is precisely what the government has done. It was not enough for the jackals in the government to purge the member for Hammond from the Speaker's office. They had to introduce this legislation, which, at the moment, is directed solely at one honourable member and, in essence, says that the honourable member cannot be trusted and that they are obstructing justice.

The precedent set by the introduction of this bill (if it had proceeded) would be to say that the government has the power to decide what is a legitimate claim and what is not. In some future parliament a party may well control both houses and this legislation could be reintroduced. It is the height of hypocrisy that a government which claims to be open and accountable is seeking to stifle all opposition in the best traditions of Stalinism. A particularly worrying element of this bill was that it had no sunset clause (leaving it open and subject to interpretation in the future), making it able to be used as a tool to prevent any dissent over any claim.

Parliamentary privilege is a tradition that has been established since 1688. It is older than this parliament and should continue to be the tool by which members are able to represent their constituents without fear of recrimination. It is a tradition that will long outlive the current government, which cannot blind the people of South Australia with its scare tactics for much longer. The accusations will not disappear with the passing of this bill, because they are already amongst the community. People have been named in documents handed to police by the former speaker's volunteer staff. This bill will not silence the accusations but merely the forum in which they would be aired. This bill would have been detrimental to the workings of the parliament and also to the community at large if members could not speak without fear. We should celebrate that the government has been forced to abandon it.

INDEPENDENT COMMISSION AGAINST CRIME AND CORRUPTION BILL

The Hon. IAN GILFILLAN obtained leave and introduced a bill for an act to establish the independent commission against crime and corruption; to define its functions and powers; and for other purposes. Read a first time.

The Hon. IAN GILFILLAN: I move:

That this bill be now read a second time.

Very few members of this chamber have been around or have memories long enough to realise that a similar piece of legislation was introduced by me on two previous occasions—in 1989 and 1992. On reflection, it is reasonable to assume that, had either of those bills been passed, South Australia would have had a very effective mechanism in place to deal with a host of issues which, unfortunately, have created a degree of scandal, received sensational media treatment and disrupted the processes of parliament and which, in my view, have resulted in injustice in some cases.

Those two previous attempts were unsuccessful, but maybe this is third time lucky.

It may be that the circumstances are such that this parliament realises that to have an independent commission against crime and corruption really is an advance for this state—incidentally, a state which in previous decades had the enviable reputation as the great reforming and innovative state. The one argument against this measure, which I reject totally out of hand, is the sanctimonious position that various governments have taken that South Australia is so squeaky clean that it does not need—and never has needed and never will need—an independent commission against corruption and, in this case, against crime and corruption.

In speaking to the bill today, I will move through some of its major ingredients. I would like (and I think it is appropriate) to acknowledge the assistance of parliamentary counsel, Alice Graham. As honourable members will already know, this is a substantial piece of legislation, and I thank her for moulding it and varying it where needed to bring it up to date.

Years ago I visited the New South Wales ICAC and spoke to the then commissioner, Ian Temby. The circumstances in the country were such that the scandal of the Queensland police force had broken and there were clearly concerns about and finger pointing at a blatantly corrupt police force in that state. However, one remark which stuck in my memory from many which Mr Temby shared with me and my research assistant was, 'Whatever you have heard about the scandals in Queensland will be nothing compared to what we will reveal through ICAC about the police force in New South Wales.' Until that time there had been no publicity, and there had been no indication that the police force in New South Wales was corrupt in any shape or form. However, very soon after that indication, the work of ICAC in New South Wales came to the fore and resulted in a profusion of prosecutions, much of which is still continuing today. The trigger that forced the government of New South Wales to look at serious reform of the police force was the work done by ICAC.

I recently spoke to a barrister who was senior counsel for ICAC in New South Wales. I asked him what he felt about ICAC and whether it would be of value in South Australia. His immediate response was that to not have an ICAC was a 'no brainer'—his phrase—and that to have an ICAC was a godsend for New South Wales and would be a godsend for South Australia. In conversation (and not only with him), it became clear that to rely on a police force of high repute and high integrity (as I believe is the case in South Australia) is not adequate in providing the forum for an impartial and wide ranging investigative body.

One aspect which I tried to emphasise in the earlier introduction of my legislation, but which was blithely ignored by the parliament at that time, was the significant preventative and educative role that ICAC performs. I am advised that, in New South Wales (and this material can be checked on its web site), approximately 50 per cent of its activity is by way of free consultancy to all tiers of government to prevent corruption—to institute processes that reduce the risk of corruption and the early discovery of corruption in government bureaucracies.

The other advantage is that, when an issue is raised that has the potential of smearing the reputation of either a department or an individual, there is an immediate circuit-breaker. They can and would expect the matter to be referred to an ICAC, which, as I hope I can explain to the chamber in a little more detail, is an appropriate body with an extraordinary capacity to deal objectively with the allegations that are raised before it.

Members must bear in mind that an ICAC does not actually charge or prosecute. It forms an opinion and, if it believes that there is adequate evidence for a prosecution, that evidence will be given to the Attorney-General, if that is the appropriate connection, or, I believe, more appropriately now in South Australia, to the Director of Public Prosecutions. The bill contains a clause which emphasises that the public interest is paramount in the motives and aims of the ICAC. There are various parts of the bill which identify an operations review committee (a parliamentary joint committee), which is part of the effective and open operation of an ICAC. ICAC will, by law if this bill is successful, have to give special treatment to any references passed to it by either house of parliament, and it is not bound in its procedures to the rules of evidence and can exercise little formality in its processes if that is determined as being the most appropriate way to go.

It is not hard to see some matters, and this is certainly not an exhaustive list, which could have been and could even now be referred to an ICAC. The outstanding one, and one which I make quite clear I believe is feasible, is the matter of the unfortunate allegations which have been about—and they have been about, of course, before last Friday when some affidavits were distributed. The problem with not having such allegations investigated by the ICAC is that the victims of the allegations are never able to be totally exonerated. Anyone who has been a victim of slurs and innuendo will know that it sticks, and it is a very unfortunate fact that it is not only members of this place who can be targeted, which has spurred the government of the day to extraordinary legislative attempts, but also any person in our society can have their lives severely damaged, if not ruined, by allegations which in many cases may be totally wrong or, if not, only partially true.

If we think of the Hindmarsh stadium, which exercised enormous amounts of time, and hovered, I believe, on the bounds of corruption by possibly two tiers of government and possibly individuals who were outside either the local or state governments, a very sad saga—

The Hon. R.I. Lucas: Did you say Hindmarsh stadium?

The Hon. IAN GILFILLAN: Yes, Hindmarsh Soccer Stadium.

The Hon. R.I. Lucas: You are saying corruption?

The Hon. IAN GILFILLAN: Did I say the word 'corruption', Mr President? If I did, what I meant to say was the allegations of corruption, because I am not a judge, nor am I an ICAC, but there were certainly allegations of corruption and they were made quite clearly in this place. My use of this circumstance as an example is that it was a matter that should properly have been dealt with discreetly and efficiently by an ICAC instead of the circus that we saw with political point scoring and people being left to make their own determination as to who carries any fault, blame or criticism as a result of the proceedings.

I think it is reasonable to say that matters such as the issue with Randall Ashbourne and Ralph Clarke, which are well-known to all members of this place, could properly have been dealt with by ICAC—in fact, should have been dealt with by ICAC—much more expeditiously than what is currently going on. The stashed cashed affair, although now being dealt with by a select committee of this place, is another example of the sort of matters which, in a daily process or monthly

process, whenever these issues come up, would automatically be referred to an ICAC to be dealt with.

In the earlier attempts to introduce this legislation—and I suspect the Hon. Rob Lucas is the only one present in this chamber who would remember those occasions: he has a good memory and he has been in this place for a long time—I was goaded by the leader of the government and the attorney-general of the time (Mr Sumner) to produce evidence. 'Where is your evidence? Put up or shut up.' It was the same old goading, which is great fun for politicians to play. We should not be playing that. There should be no role for that.

The whole role and purpose of setting up ICAC is, if there are matters where it is put up or shut up, it is put up to ICAC. The debate over my bill at that stage became, unfortunately, a litany of accusations of wrongdoing, and a lot of them were allegations by the police. I still have tapes given to me by people who made allegations of horrendous offences committed by serving police officers at that time, which is not a bad example as to why members of parliament should still have total protection for the contents of their offices, otherwise this procedure of people coming without the fear of being forced to disclose what they wish to say would be destroyed.

However, unfortunately, because of the drama that surrounded that particular pressure on the debate as to whether the ICAC was entitled to be established because of South Australia's incidence of corruption and organised crime, or other justifications, the far less sensational lower case headline, if it is a headline at all, is virtually totally neglected. My advice from New South Wales is that the work of ICAC in its educational, consultancy and preventive measures has been of enormous benefit and involves a lot of interaction between the tiers of government and the police.

I will briefly go through some of the significant ingredients of the bill, and I will seek the indulgence of the council to seek leave to conclude my remarks because I believe there may be other matters that I would like to address in the second reading contribution. The functions of the commission are significant, of course. In the bill the functions are listed starting on page 9. The clause reads as follows:

(1) The principal functions of the commission are as follows:
(a) to investigate an allegation or complaint, or any circumstances which, in the commission's opinion, imply that—
(i) corrupt conduct: or
(ii) conduct liable to allow, encourage or cause the occurrence of corrupt conduct; or
(iii) conduct connected with corrupt conduct,
may have occurred, may be occurring or may be about to occur;
(b) to investigate an allegation or complaint, or any circumstances which, in the commission's opinion, imply that—
(i) organised crime; or
(ii) conduct liable to allow, encourage or cause the occurrence of organised crime; or
(iii) conduct connected with organised crime,
may have occurred, may be occurring or may be about to occur.

It is worthwhile indicating to members the definition of organised crime, because this is an addition to the New South Wales legislation. It reflects the fact that I was advised by Mr Bob Bottom many years ago that he believed that the South Australian jurisdiction was small enough that it could embrace organised crime and reflect what he believed; that is, it is naive for South Australia to believe that organised crime does not or did not exist in this state. Organised crime may well be the target of what the Premier is so fond of calling outlaw bikie gangs. The definition provides:

organised crime means a course of criminal conduct or series of criminal offences that—
(a) involves substantial planning and organisation; and
(b) is carried out principally for the profit of persons other than those who commit the offences;

The definition is significant and well worth members pondering. It is not just the normal run of crime where a perpetrator commits a crime for his, her or their immediate benefit. Organised crime has those ingredients. It involves substantial planning and organisation, and it is carried out principally for the profit of persons other than those who commit the offences.

Several functions are clearly listed to reinforce my point that ICAC is more than just the investigation of allegations of corruption or organised crime. I will read them for members' edification. Clause 11(1) provides:

(e) to examine the laws governing, and the practices and procedures of public authorities and public officers, in order to facilitate the discovery of corrupt conduct and to secure the revision of methods of work or procedures which, in the opinion of the commission, may be conducive to corrupt conduct or organised crime;
(f) to instruct, advise and assist any public authority, public officer or any other person (on the request of the authority, officer or person) on ways in which corrupt conduct or organised crime may be eliminated;
(g) to advise public authorities and public officers of changes in practices and procedures compatible with the effective exercise of their functions that the commission thinks necessary to reduce the likelihood of the occurrence of corrupt conduct and organised crime;
(h) to cooperate with public authorities and public officers in reviewing laws, practices and procedures with a view to reducing the likelihood of the occurrence of corrupt conduct and organised crime;
(i) to educate and advise public authorities, public officers and the community on strategies to combat corrupt conduct and organised crime;
(j) to educate and disseminate information to the public on the detrimental effects of corrupt conduct and organised crime and on the importance of maintaining the integrity of public administration;

It is hard for me to pick out and emphasise it, but I urge members to take note of paragraph (j). It indicates the extra dimension that this legislation imposes on ICAC and reflects the function that the New South Wales ICAC is actively performing—and has done for many years. It continues:

(k) to enlist and foster public support in combating corrupt conduct and organised crime;
(l) to develop, arrange, supervise, participate in or conduct educational or advisory programs as may be described in a reference made to the commission by both houses of parliament.

I do not think I need to emphasise further that ICAC, as established by this bill, is more than just an investigative entity tracking down the allegations of corruption and organised crime.

The bill details how the hearings will be held. As I indicated earlier, the hearing is not based on a typical court procedure—which is actually one of its strengths. It does not need to be obliged to follow the rules of evidence. It does not need to be pressured—such as many police inquiries would be—to come through with firm evidence for a prosecution. It does not have that particular injunction imposed on the way that it would go about its business. In fact, clause 96, Evidence and procedure, provides:

(1) The commission is not bound by the rules of evidence and may inform itself on any matter in such manner as it considers appropriate.
(2) The commission must exercise its function with as little formality and technicality as is possible, and, in particular, the

commission should accept written submissions as far as is possible and hearings should be conducted with as little emphasis on an adversarial approach as is possible.

It is clearly in the bill that this is a much more user friendly and productive forum in which these matters can be dealt with to the satisfaction and reassurance of the community. There is a lot of detail on matters—which one would expect—such as enabling the commission to have search warrants. There is an operations review committee, and I think it is worthwhile at this stage of the debate to indicate what that committee is and what it is to do. The committee will comprise seven members, being the commissioner, an assistant commissioner nominated by the commissioner and five persons appointed by the Governor on the recommendation of the Attorney-General with the concurrence of the commissioner, of whom four will be appointed to represent community views. Clause 62 provides:

(1) The functions of the committee are as follows:
(a) at the request of the commission, to advise the commission as to whether the commission should investigate or discontinue an investigation of a complaint made under this act;
(b) to advise the commission on other matters as the commission may from time to time refer to the committee.
(2) The commissioner must consult with the committee on a regular basis at least once every three months.

That is one vehicle in the legislation which ensures wider scrutiny of the activities of ICAC than just the commission itself. Then we come to the parliamentary joint committee, which is in part 6 of the bill. It is a very important aspect of this legislation, because the aim is to ensure that ICAC is not at a distance and a sort of secret body operating away from answerability to its real authority, which is this parliament. Clause 66 provides:

(1) The joint committee will consist of nine members, of whom—
(a) three must be members of, and appointed by, the Legislative Council; and
(b) six must be members of, and appointed by, the House of Assembly.
(2) The appointment of members of the joint committee must, as far as practicable, be in accordance with the practice of parliament with reference to the appointment of members to serve on joint committees of both houses of parliament.
(3) A minister of the crown is not—

and I emphasise 'not'—

eligible for appointment as a member of the joint committee.

Clearly, that is justified because it is expected that some of the accusations may be about corruption in certain departments of which a minister may have control. This parliamentary joint committee will have a presiding officer.

More importantly, bearing in mind that this joint committee is of members of parliament comprising three from this chamber and six from the other place, the functions are:

- to monitor and review the exercise by the commission of its functions;
- to report to both houses of parliament with such comments as it thinks fit on any matter relating to the commission or connected with the exercise of its functions to which, in the opinion of the joint committee, the attention of parliament should be directed;
- to examine each annual and other report of the commission and report to both houses of parliament on any matter appearing in, or arising out of, a report;
- to examine trends and changes in corrupt conduct or organised crime, and practices and methods relating to corrupt conduct or organised crime, and report to both houses of parliament on any change that the joint committee thinks should be made to the functions, structure or procedures of the commission;
- to inquire into any question and connection with the commission's functions referred to it by a house of parliament and report to that house on that question; however, and this is to be emphasised, nothing in this part authorises the joint committee (that is, the parliamentary committee) to investigate a matter relating to particular conduct or to reconsider a decision to investigate, not to investigate or to discontinue an investigation into a particular complaint; or
- to reconsider the findings, recommendations, determinations or other decisions of the commission in relation to a particular investigation or complaint.

This emphasises that although the commission will be answerable to and, to a large extent, clearly apparent, if not transparent, to parliament, it is not under the direction of the parliament in particular matters. Again, I believe that is a cardinal virtue of the ICAC in that it has strong connections of answerability, and that is outlined in some detail in the reports to parliament which are specified in some detail in the bill.

As I indicated before, I will be seeking leave to conclude but, before I do, I want to make an observation. Very rarely is there an opportunity for the parliament to institute a substantial entity which, to a large extent, can change the way in which the state has dealt with matters as serious as corruption and organised crime. It embraces a departure from the procedures that we have had here in South Australia, but I do not think any member would reject it on that basis. I remember times when we did not have the Office of the Director of Public Prosecutions; so, changes take place. Sometimes it is a painful transition. If they are valuable and substantial, they demand that there is close scrutiny and extensive debate.

The earlier attempts encountered what I regarded as unfortunate opposition from the police, in the first case, who felt that the whole measure was targeted at them and, certainly, as I said before, from the government, which felt that it was a reflection on the state of the state. It did not want to condone in any way an implication that South Australia needed an Independent Commission against Crime and Corruption because such things did not exist in South Australia. It was resisted to a certain extent by members of the parliament and others who believed that it was an extraordinarily expensive addition given that, if South Australia needed it, it was only marginal.

My hope is that this chamber will pass the second reading and look with some analytical detail in the committee stage at how an ICAC can be best fitted into the context of South Australia. It may well be that there are shared tasks. I am not making a claim, in fact, I would argue that we do not need the quantity of and extent of staffing that is required in New South Wales. Quite clearly, that can be population-related.

We ought to also look at the benefit that similar organisations have provided in both Queensland and Western Australia, and those members who have been reading the current press will realise that the ICAC equivalents in Western Australia and Queensland have been engaged in looking at allegations of an unacceptable kind of political figures in those states. So, it is not just that South Australia is leaping into unknown country following New South Wales. Both Queensland and Western Australia have had similar organisations for many years, but I think it is well overdue that we, in South Australia, follow suit but with our own

originality. Let us determine what we want to suit South Australia's requirements. I will be looking for support for the second reading but, in the meantime, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: PLASTIC BAGS

The Hon. G.E. GAGO: I move:

That the 53rd report of the committee on plastic bags be noted.

This inquiry was referred by the House of Assembly to the Environment, Resources and Development Committee twice. Initially, it was referred to the committee as part of the terms of reference for the waste management inquiry. The committee included plastic bag usage in South Australia as part of its terms of reference for waste management. The council may remember that the waste management inquiry was undertaken last year and the report was tabled in this council. As part of the waste management inquiry, the committee heard from five witnesses on plastic bag management and received four submissions, discussing the issues surrounding plastic bags.

In response to the withdrawn bill entitled Environment Protection (Plastic Shopping Bags) Amendment Bill 2003, introduced by Mr Hanna MP in February 2004, the issue of plastic bag management was referred a second time to the committee. Due to this second referral, the committee decided the interest being shown in and the issues surrounding the management of plastic bags in South Australia warranted a separate report, hence the report I lay before the council today.

In preparing this report, the committee found that there is a need to reduce the number of plastic bags used annually in Australia. Both the community and government want to see fewer plastic bags in our environment. To achieve this, Australia's environment ministers, through the Environment Protection and Heritage Council, agreed in 2003 to the Australian Retailers Association Code of Practice for the Management of Plastic Bags. The code required signatories to reduce the distribution of plastic bags by 25 per cent by the end of 2004 and by 50 per cent by the end of 2005. The code has effect until the end of 2005, and signatories to the code are exempt from any legislation introduced to minimise plastic bag usage during this period.

In accordance with the code, the Australian Retailers Association reported a 26.9 per cent annualised reduction in high-density polyethylene bags, which was achieved by the end of 2004. However, only four Group One signatories were able to report data, namely, Coles Myer, Woolworths, Franklins and Foodland Australia Ltd. The other Group One signatories were unable to provide their plastic bag reduction data due to the retail store structure, or so they reported.

Group 2 signatories are not required to report their plastic bag reductions. The committee is disappointed that the results obtained by the Australian Retailers Association are from only four retailers, and it has recommended that the government pursue this issue with the Australian Retailers Association in order to receive a better indication of plastic bag reduction via retailers.

In the recently released Nolan ITU report undertaken for the commonwealth Department of Environment and Heritage, an estimate of plastic bag production and importation was used to determine a reduction of 20.4 per cent in high density polyethylene bag usage between 2002 and 2004. As members can see, there is a discrepancy between these figures and those reported by the Australian Retailers Association. These two sets of results obviously need further clarification and investigation.

The community is a major player in the reduction of plastic bags, and they should be commended for their efforts. The 20 to 25 per cent reduction in plastic bag usage could not have been achieved without the community's support and enthusiasm for the initiatives that have been instigated for the reduction in use of plastic bags. These include the use of alternate bags and at times simply saying no to bags at the checkout. In a press release last year by the Minister for Environment and Conservation, he stated that, with respect to the sale of most reusable bags, 11 of the top 20 Coles stores were in South Australia, including the top seven stores. This is a very positive outcome for South Australia, and we should be very pleased with that result.

Councils and retailers need to be encouraged in their initiatives to reduce plastic bags. Many councils have undertaken schemes to distribute alternative reusable bags to their residents, and retailers have provided alternatives to plastic bags, such as reusable bags or cardboard boxes, for their customers to use. Bunnings requires special mention for its drive to reduce plastic bags in the environment by implementing a charge for plastic bags—the demand by customers for plastic bags declined by over 70 per cent. Other retailers are also undertaking measures, including using paper bags or other alternatives, or simply asking the customer whether or not they require a bag.

Overseas experience shows that both levies and bans are beneficial in reducing the number of plastic bags. A levy was introduced in Ireland in 2002, with a very successful overall effect: plastic bag distribution reduced by 90 per cent in the first three months. A ban on plastic bags has been introduced in South Australia, Africa, Taiwan, Bangladesh and, most recently, Papua-New Guinea. Some have banned all plastic bags initially, usually under a specific thickness, whilst others have taken a slower, more incremental phased-in approach. For example, Papua-New Guinea is initially banning all imported plastic bags, with the second phase taking effect six months later, banning all plastic bags.

Environment ministers have stated their intention to phase out plastic bags by the end of 2008. However, it is not clear whether this will be via a levy or a ban on plastic bags. Industry and the community want to know how plastic bags are to be managed in the future, as the code is only an initial step in the process to reduce plastic bag usage. It also stipulates particular time parameters. The government needs to make it clear how it intends to proceed. The committee believes that South Australians can and are changing their behaviour patterns to reduce the number of plastic bags they utilise each year, and this is very encouraging indeed. The committee supports the national approach to plastic bags in the first instance, but a quick response is required if the goals of the code are to be met. As a result of this inquiry into plastic bags, the committee has made 13 recommendations in total, and it looks forward to them being considered and, obviously, implemented.

I take this opportunity to thank all those people who have contributed to this inquiry, including those who took the time and effort to prepare submissions for the committee and to come along and give evidence. I extend my sincere thanks to the members of the committee: the Hon. Sandra Kanck, the Hon. David Ridgway, the Hon. Malcolm Buckby, Mr Tom

Koutsantonis, and the committee's Presiding Member, Ms Lyn Breuer, and also the committee's staff, Mr Phil Frensham and Ms Alison Meeks.

The Hon. R.D. LAWSON secured the adjournment of the debate.

LEGISLATIVE REVIEW COMMITTEE: SUPPRESSION ORDERS

The Hon. J. GAZZOLA: I move:

That the report be noted.

This reported resulted from a reference to the committee by the Legislative Council on 22 August 2002. It relates to the suppression order regime which operates in relation to the publication of details about criminal trials here in South Australia. The committee commenced its inquiry by developing an issues paper, and it then advertised for submissions in April 2003. It conducted hearings in 2003 and 2004 and took evidence from 14 witnesses, including representatives of the print media (that is, *The Advertiser* and *The Australian*) and other media outlets, such as the Australian Broadcasting Corporation.

The committee also took evidence from the Chief Justice of South Australia, the Hon. John Doyle, and representatives of the Law Society of South Australia. After considering all of the evidence presented to it, the committee came up with five recommendations, four of which were supported by the majority of the committee, while the other recommendation had unanimous support. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SUBORDINATE LEGISLATION (DISALLOWANCE AND VARIATION) AMENDMENT BILL

The Hon. R.D. LAWSON: I seek leave to move Order of the Day, Private Business No. 1 in a slightly amended form.

Leave granted.

The Hon. R.D. LAWSON obtained leave and introduced a bill for an act to amend the Subordinate Legislation Act 1978 and to make a related amendment to the Acts Interpretation Act 1915. Read a first time.

The Hon. R.D. LAWSON: I move:

That this bill be now read a second time.

This bill seeks to amend the Subordinate Legislation Act in a significant way. It seeks, in brief, to make government more accountable to the parliament by providing that the remaking of the regulations within six months, after disallowance of the same or comparable regulations, will not be permitted. Secondly, it seeks to close the loophole in the Subordinate Legislation Act which allows ministers to circumvent the requirement that regulations come into force four months after being made. Thirdly, it seeks to give to both houses of parliament the power to disallow not only the whole but also any part of a regulation.

The history of subordinate legislation is interesting, and I might give just a very brief comment about it. The power of the executive to make subordinate legislation is of great antiquity, but in the 1920s the capacity of the executive to avoid parliamentary scrutiny became manifest. In the United Kingdom, Lord Hewitt wrote and published a book, *The New Despotism*, in which he suggested:

> A mass of evidence establishes the fact that there is in existence a persistent and well-contrived system intended to produce, and in practice producing, a despotic power which at one and the same time places government departments above the sovereignty of parliament and beyond the jurisdiction of the courts.

Lord Hewitt had a prescription for overcoming what he saw as this despotism of the executive. It is unnecessary to go into it. He seems to have overlooked, however, the fact that subordinate legislation is really a product of the fact that a supreme parliament does have power to delegate legislation, and of course parliament, through that power of delegation, has ultimate authority in relation to what might be produced. Of course, in this state we have had, for very many years, the capacity of either house of parliament to disallow regulations.

Regulations govern the citizens of this state in exactly the same way as statutes do. Regulations are similar to ordinary laws, usually called legislation. Some regulations carry heavy penalties for noncompliance. However, unlike ordinary laws, regulations are not made by parliament. They are made by the executive government, usually in the name of the Governor. Accordingly, regulations are often made without parliamentary consultation, without parliamentary debate, or even private debate, about their contents and efficacy. There is some scrutiny of regulations by parliament. Every regulation must be gazetted and then tabled in both houses of parliament within six sitting days after being made. That requirement now appears in section 10 of the Subordinate Legislation Act. It originally appeared in our Acts Interpretation Act.

If either house of parliament passes a resolution disallowing a regulation, it will cease to have effect. Although hundreds of regulations are made each year, disallowance is a relatively rare event. Notwithstanding the power of parliament to disallow a regulation, notwithstanding the fact that that power to disallow regulations is an important component in our parliamentary democracy, the fact is that it is a power not used on any regular basis, because parliament has respect for the appropriate role that executive government must play.

There are a number of major deficiencies in the present mechanisms for reviewing regulations. They are, firstly, after regulations are disallowed the government can immediately remake them. Secondly, parliament only has power to disallow the whole of a regulation. Very often the objectionable part of a regulation is only a very small part of the whole. Thirdly, ordinarily, regulations come into operation after four months. However, ministers do have a power to specify an earlier commencement and this power is often abused.

I should mention in this general analysis of regulations, the important role that the Legislative Review Committee plays in the parliament. I believe it is one of the most effective committees in the parliament and scrutinises diligently regulations and from time to time will fearlessly recommend changes and, on occasions, disallowance. It also serves a very important function in ensuring that the bureaucracy knows that parliament is not merely a rubber stamp when it comes to regulations. Notwithstanding the efficacy of that committee, the deficiencies which I have mentioned persist.

If this parliament is to be truly supreme, it ought to have greater powers in relation to regulations, and very extensive delegation which parliament has given to the executive, should be, in some manner, circumscribed. The remaking of regulations immediately after they have been disallowed is the first of the issues I wish to address. The Subordinate

Legislation Act provides that every regulation, and that includes rules and by-laws and other forms of statutory instrument, shall be tabled in both houses within six days of being made. Either house can, by simple resolution, disallow any regulation within 14 sitting days after its tabling.

As the government can invariably summon majority support in the House of Assembly, disallowance motions are usually passed in this place, where the government does not invariably have a majority. There is no restriction on a government immediately remaking regulations which have been disallowed. There have been a number of instances where this has occurred. The most notable example in the present parliament is the victims of crimes regulations, which have been disallowed for good reasons in this house on five occasions, and the government has remade them after each disallowance.

I would not wish to create the impression that this government alone has adopted this tactic. Previous governments, including the last Liberal administration, used it similarly as Labor governments had before. So this is not purely a partisan exercise. It is one which seeks to restore to parliament its proper power and authority, because the practice of remaking regulations immediately after they have been disallowed makes a mockery of parliament's power to disallow subordinate legislation.

Parliaments of the Commonwealth, the Northern Territory, the Australian Capital Territory and Tasmania have all passed legislation which prevents the immediate remaking of regulations. In the first three of those jurisdictions, the same regulation in substance cannot be reintroduced for six months without a resolution of the disallowing house. In Tasmania, the same regulation, or one that is 'substantially the same', cannot be introduced for 12 months. In New South Wales, legislation prohibits the remaking of a disallowed instrument within four months of disallowance, unless the relevant house rescinds its disallowance motion. All of these provisions appear to operate satisfactorily, and the wheels of government in those jurisdictions have not fallen off.

Secondly, I deal with the subject of the amendment of regulations. In this state, parliament only has power to disallow regulations in their entirety, and this parliament cannot amend regulations. However, in New South Wales, Victoria, Western Australia and Tasmania, parliament can disallow in whole or in part. The Western Australian parliament also has the power to amend or substitute regulations. However, as that power can be exercised only by a resolution of both houses, obviously, it leaves the government with an alternative procedure to change regulations as well as an effective veto.

There are many occasions when only a small part of a regulation is offensive. Indeed, to avoid disallowance, governments can adopt the strategy of mixing what might be deemed electorally popular measures with one measure that will be unpopular. An opposition, minor parties and Independents may be reluctant to disallow such a regulation because of the backlash against the repeal of the more popular aspects. This is the so-called 'poison pill' strategy. On the other hand, I must confess that the power to disallow selectively portions of regulations does have an administrative downside which must be recognised. This power might allow an opposition to disallow, say, increased fees whilst leaving other measures intact. However, experience in other jurisdictions shows that this disadvantage is more theoretical than real.

I deal next with the subject of the commencement of regulations. Section 10AA of the Subordinate Legislation Act provides that regulations come into operation four months after the date on which they are made, or from such later date as is specified in the regulations. However, the same section permits the responsible minister to issue a certificate, and that 'it is necessary and appropriate' that the regulation comes into operation on an earlier date. The exemption in section 10AA was intended to cover special circumstances. However, ministers are now issuing certificates as a matter of course. In recent years, the annual report of the Legislative Review Committee has condemned ministerial overuse (indeed, misuse) of the exempting power in section 10AA.

The purpose of delaying the commencement of regulations for four months was really to provide parliament with an opportunity to disallow them before they came into operation, because it must be admitted that disallowance of any regulations after they have been commenced is invariably inconvenient, especially for citizens who may have to reorganise their affairs yet again on the strength of a regulation which ceased to operate only after a short period. Given that ministers are invariably using the section 10AA exemption, this section is not meeting its objective.

I should pay tribute to the Hon. Martyn Evans (formerly a member of this parliament and subsequently a member of the federal parliament; fortunately now replaced by the admirable David Fawcett as the member for Wakefield). However, it was the Hon. Martyn Evans, when he was in a position to hold an effective balance of power in a previous Labor administration, who was able to get amendments to the Parliamentary Committees Act, many of which are very effective. Also, he was instrumental in the introduction of section 10AA. Notwithstanding the fact that it was a good initiative, it has not proved to be as good as it should have been and, accordingly, what is being suggested in the bill now introduced is that the section should be amended so that the minister be required to certify that early commencement is required on account of 'exceptional circumstances'.

Those circumstances must be stated. I remind the council that the current test is not 'exceptional circumstances' but merely 'necessary and appropriate', and the latter words are too easy to circumvent. If the minister is required to state exceptional circumstances, the Legislative Review Committee will be able to examine whether or not that is an empty claim or whether or not it is one that, in the circumstances, is justified. Accordingly, and in summary, this bill (the second reading of which I am speaking in favour) will provide that the Subordinate Legislation Act be amended so that, first, after disallowance the same regulations or regulations which are substantially the same may not be reintroduced for a period of six months after disallowance except where the disallowing house resolves to approve reintroduction.

Secondly, that either house of the parliament have power to disallow the whole or part of any regulations. Thirdly, that regulations may be amended by resolution of both houses passed within the time for disallowance; and, fourthly, that section 10AA be amended to allow for the early commencement of regulations only where the minister certifies that such commencement is required because of 'exceptional circumstances', which must be stated. There is a consequential amendment to the provision in the Acts Interpretation Act. I commend the bill to the council.

The Hon. J. GAZZOLA secured the adjournment of the debate.

SOUTH AUSTRALIAN HEALTH COMMISSION ACT

Order of the Day, Private Business, No. 4: Hon. J.M. Gazzola to move:

That the regulations under the South Australian Health Commission Act 1976, concerning non-Medicare patients, made on 28 October 2004 and laid on the table of this council on 23 November 2004, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

SUPERANNUATION ACT

Order of the Day, Private Business, No. 5: Hon. J.M. Gazzola to move:

That the regulations under the Superannuation Act 1988, concerning contracts without tenure, made on 18 November 2004 and laid on the table of this council on 23 November 2004, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

CLEVE DISTRICT COUNCIL

Order of the Day, Private Business, No. 9: Hon. J.M. Gazzola to move:

That the District Council of Cleve by-law No. 4, concerning local government land, made on 8 October 2004 and laid on the table of this council on 26 October 2004, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

VICTIMS OF CRIME ACT

Order of the Day, Private Business, No. 10: Hon. J.M. Gazzola to move:

That the regulations under the Victims of Crime Act 2001, concerning statutory compensation, made on 21 October 2004 and laid on the table of this council on 26 October 2004, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: WASTE MANAGEMENT

Adjourned debate on motion of Hon. Gail Gago:

That the report of the committee on an inquiry into waste management be noted.

(Continued from 16 February. Page 1086.)

The Hon. SANDRA KANCK: This is, in fact, the second inquiry into waste management that has been conducted by the Environment, Resources and Development Committee.

The Hon. Caroline Schaefer interjecting:

The Hon. SANDRA KANCK: The Hon. Caroline Schaefer said she was on the last one. There was a referral back in 1994 from the Legislative Council to the Environment, Resources and Development Committee, and that reported on 23 July 1997 (it is quite surprising to think that it was eight years ago that it was reported on). Then, on 28 March last year, there was a motion from the House of Assembly to refer the issue of waste management to the Environment, Resources and Development Committee. In this inquiry we also separated out the issue of plastic bags (and, in fact, the Hon. Gail Gago this afternoon spoke to the plastic bags report). In the process of sorting out which things we were dealing with in the motion, I moved successfully within the committee for the original terms of reference to also include container deposit legislation.

I have to observe—and I think it is fairly obvious—that much has changed since November 1994, when that first reference was given to the Environment, Resources and Development Committee, to the present time. Kerb side recycling, for instance, is happening across all of the metropolitan area as a matter of course, and 16 country councils are also undertaking recycling in one form or another. To some extent, this has become a necessity, following the introduction of bans on backyard burning about a decade ago, which has progressively made it more difficult for some forms of waste to be disposed of. Back then, the government entity that dealt with all this was the Waste Management Commission. That was subsequently subsumed into the Environment Protection Authority under the Liberal government, and it has now been reincarnated, with the creation last year of Zero Waste SA.

Out of this most recent inquiry it became fairly clear that waste management in South Australia remained something of a dog's breakfast. Within metropolitan Adelaide there are eight different domestic recycling systems while, in contrast, many people in rural areas do not have the luxury of a local government-based kerb side recycling system at all. Before I elaborate on that, I will reflect on what is waste; what is rubbish.

A responsible approach for all of us to take in relation to rubbish is the environment movement's adage, which has been around for two or three decades, that is, 'Reduce, reuse and recycle', and that is a hierarchy. It means, first, not creating waste, and that is obviously the best way to go. If we can do something without creating waste, that is the method we should choose. It can include things such as refusing to take unnecessary packaging. However, if it is not possible to reduce, we go to the next step, which is to reuse. Back in the days when we saved our deposit bottles and sent them back to be reused, they were collected from depots and washed and refilled. Finally, in that hierarchy, if reuse is not possible, the third option is to recycle. That is what we do now when the deposit bottles are collected. They are broken up and the glass is melted down and reformed into new containers. So, for the most part, throwing away so-called rubbish ought to be the very last option.

Kerb side collection occurs in the metropolitan area—at least, in my council area—with a separate bin for collecting newspapers, cardboard, metals and plastics. That does not happen with all councils but, with my council (Campbelltown council), that is what happens. In fact, the Campbelltown council has three bins for normal household waste and also for green waste, that is, cuttings, lawn clippings and that sort of thing. When one sees those bins out in the street it really gives pause for reflection about how much of this resource had previously been thrown away by many people.

Waste is nothing more than something which we cannot use in a particular form at a particular time, or it is material, such as aluminium cans, which requires technology beyond what you and I have in our own back yards that would allow us to reuse it. One of the more interesting presentations to the committee advised of new Japanese technology that is being used to turn plastic back into oil. I do not think many people realise that the plastics we use are made of oil. It is early days with this, but it is very encouraging because it appears that, for every 10 tonnes of plastic that they are using in this trial, 9 500 litres of diesel is being produced. If this technology becomes commercially viable, it will have enormous advantages for the conversion of unwanted plastic, given that Adelaide alone is responsible for producing 30 to 40 tonnes of waste plastic per day.

Anything that reduces the amount of waste going to landfill needs to be investigated and supported. There is no doubt that the closure of the Adelaide City Council's Wingfield Dump at the end of 2004 will have a significant cost impact, with that same rubbish having to be transported to the Mid North of the state. That will show up in council rates, which people resent paying at the best of times.

I will spend a reasonable amount of time in my contribution talking about the situation with respect to rural areas relating to waste management. The written submission from the District Council of Ceduna had an 'any other relevant matter' part to it. I will read it, because it puts an interesting position. It states:

> Stringent regulation of what materials may be disposed of at landfill sites has resulted in a register of materials known as listed wastes. Generally, these are prohibited from disposal at landfill sites. Such materials commonly found include automotive tyres and batteries, liquid wastes (including pesticide residues, cooking oils and fats and paints) and permapine posts. These wastes are prohibited from landfill sites but must go somewhere! They cannot be disposed of locally so must be transported to suitable collection depots. Again the factor of transporting such substances long distances places a considerable cost burden on rural communities who can ill afford such financial encumbrances.
>
> The District Council of Ceduna considers that a program similar to the CDL could be set up to assist in the disposal of these listed wastes, and that it could be further widened to include other products. The cost of returning these items and substances to suitable locations would be assisted considerably by using moneys obtained from container deposit type legislation.

I think that this is probably the first of many submissions from rural communities that shows what those of us in the city often do not reflect on, that is, when they try to deal with waste the considerable costs of transport are added to the collection and disposal. To add insult to injury, because of these costs, very often the rural councils cannot afford recycling schemes. Then we in Adelaide will decide that we will locate the dumps to put our stuff in their area.

The Inkerman and Dublin landfill action groups argued to the committee for a significant part of the post Wingfield $10 levy to be allocated to the community that had the dump foisted on it. At the moment, of that $10 levy, 50 per cent goes to Zero Waste SA and 50 per cent to the EPA. That does not seem to me to be an unreasonable ask, because they will have to bear the cost of the noise and fumes of the extra traffic that results from removing metropolitan waste into country areas, and they will have to deal with the problem of any plastic and paper that might end up blowing around, and they are the ones who will have to deal with any smells. If we in Adelaide continue with our 'out of sight, out of mind' response, it is possible that we may have to contemplate still further increases in transport costs of our wastes so that the landfills and composting operations are not all visited on the same unfortunate group of residents again and again.

The District Council of Streaky Bay produced what I thought was an excellent submission. It has an area of 620 000 hectares to cover, with a small population for a rate base, the largest being Streaky Bay with only 1 100 residents. Streaky Bay is the only one of the five townships in the district council area that has a weekly rubbish collection. Other than that, there are transfer stations at Wirulla, Haslam, Sceale Bay and Baird Bay, with rubbish being transferred to Streaky Bay every three to four months. Yanerbie, Perlubie Landing and Fisherman's Paradise have mesh-enclosed trailers which are emptied weekly at Streaky Bay.

The District Council of Streaky Bay suggested to the committee that Zero Waste SA give transport subsidies to assist remote councils such as theirs. It costs them $60 to $65 a tonne to get the recyclables to the market, so it is simply not economic for them to do it. The Streaky Bay council suggested that EPA guidelines need to be more flexible. What can be imposed on the metropolitan area may not be appropriate for the regions. The cost to regional councils will be prohibitive in many cases. The Streaky Bay council raised the issue of compost as an example. It is not environmentally hazardous so they asked why regulatory overkill is being imposed on them.

The Hon. Caroline Schaefer interjecting:

The Hon. SANDRA KANCK: I am getting interjections from the Hon. Caroline Schaefer, who obviously feels quite strongly about this because she knows about the people in these areas and what they are having to deal with. Again referring to the District Council of Streaky Bay's submission, it states:

> Over recent years council has become increasingly concerned about Environment Protection Authority changes to waste management and the associated increased costs related to these changes.
>
> A simple example of this is the disposal of car and truck tyres. The Environment Protection Authority will no longer allow them to be disposed of in bulk within the landfill unless shredded because they can work their way to the surface. Council now has two options: freight the tyres to Adelaide or shred tyres and dispose of the rubber within the local landfill, with both alternatives increasing costs.
>
> In our situation, which is a two metre face landfill operation, why can't single tyres be laid at the base in front of the backfill face and covered with two metres of waste? They will not work their way to the surface.
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> This is a simple practical suggestion which would save council some $5 000 per year, which some may say is insignificant but is important to smaller rural councils.
>
> The Environment Protection Authority has a 'one rule applies' to issues such as tyres and will not consider simple but workable ideas which allow cost savings.

It goes on to make this observation:

> Circumstances vary from site to site because of a broad range of reasons, and flexibility with a view to cost savings must apply.

It does not sound to me to be an unreasonable suggestion that the Streaky Bay council makes, and I hope that the powers that be, if they read the contributions that we make in this parliament, take this on board. These extra costs, which might appear tolerable in the metropolitan area, can blow out in a rural area, and it results in illegal dumping in some cases. There is obviously resentment at being asked to pay the sorts of high prices that are being foisted on them.

There may be some hope for the rural councils. Max Harvey of the EPA told us that that body is reviewing its guidelines. He said:

> It would be fair to say that the current guidelines have not necessarily taken into account local conditions.

So I am not going to say to rural councils 'You are saved', but there appears to be a slight opening there. At the time that we were conducting this inquiry, the EPA was involved in negotiations with local government about the guidelines.

The South-East Local Government Association expressed concern about the current guidelines. I questioned Dr Paul Vogel, the chief executive of the EPA, when he came to give evidence to the committee about extension of collections of hazardous chemicals beyond the collection facility at Dry Creek, and that is vaguely available to us in the metropolitan area but it is simply not viable for anyone in regional areas. Dr Vogel told us that the EPA was having discussions about this with Zero Waste SA and, when I asked whether this included going out to the regions, he did not say yes but he did not say no.

One of the problems for local government is that their officers do not have the power to stop a vehicle or request proof of identity when they see illegal dumping occurring, and there are not too many EPA officers running loose out in the rural areas. A suggestion made to us is that the powers of the EPA officers could be delegated to local government officers in country areas, and I think that is an eminently sensible suggestion. Government agencies are encouraging local government to form amalgamated bodies across the regions to deal with waste. The problem with that is that the local government entity is the one which the EPA will relate to, even though the knowledge and the interest lie with the amalgamated bodies; so another problem that the EPA needs to address is just who it is that they are talking to.

The South-East Local Government Association Waste Management Committee would not necessarily be consulted if a new business producing lots of waste was to be set up in the area. The tendency for smaller dumps needing to close and transfer stations being put in place was the preferred option but, nevertheless, transport will cost these councils.

The regional and country based councils in their submissions said that industry had to be made more responsible for its own waste creation and that legislation should be passed to deal with this. In the regions we have that problem always of tyranny of distance. At Naracoorte, timber waste is simply burnt. It could be mulched and transported for composting but the cost of freighting it the 110 kilometres to the composting facility at Mount Gambier is simply prohibitive.

Mr Ron Ellis, of the South-East Local Government Association, suggested to the committee that there is a need for a state waste plan, and he gave as an example a problem area for SELGA, and that is chemicals, which I referred to a short time ago. He said:

> There is no state waste plan. We are therefore wondering whether one of the things we could suggest is that there be a waste plan for the state that deals with those waste streams where the state has to provide some solutions for the more difficult areas of waste management. Those for us are chemical wastes. . . we have some waste generation streams which really need to match in with the state plan. We can't handle them ourselves.
>
> We need our plan to also harmonise with the state so far as having agencies give us the approval for what we are intending to do, to make sure that they are consistent with other moves around the state, and provide a reasonably cohesive approach to similar problems that are repeated elsewhere. We need our regional plans to be financed by the state. We need councils to cooperate and compromise, because they are going to have to deal with their neighbouring councils to get some of these solutions to work, and for smaller regional councils the idea of cooperation and compromise is something about which they have no choice, but they cannot do it any other way.

In relation to the location of rubbish dumps, no-one wants a dump near them. Some years ago we saw the political footballing associated with the legislation to close Adelaide City Council's Wingfield facility. MPs, such as the Hon. Kevin Foley, were fierce in their determination to close down that dump. If one looks at the comments he was making at the time, they were based purely on parochialism: 'This is my electorate and we will get rid of this dump.' It was as simple as that. There was no scientific logic to it. Locals around the NAWMA facility fought against its establishment, as did farmers around the Dublin and Inkerman dumps, with whom I had and still have a great deal of sympathy. We in the metropolitan area play an out of sight and out of mind game, and we are happy to foist our rubbish onto people in the rural areas. It is a head-in-the-sand approach; if we cannot see it, our rubbish is not there. I personally advocated having the rubbish we create close to us so that, metaphorically, our noses are rubbed in it on a daily basis.

The committee was informed by Zero Waste SA that 30 per cent to 40 per cent of the domestic waste stream comprises green waste, that is, organic material. In the metropolitan area, at least, there is money to be made from this. It costs around $25 per tonne to collect it, but once it is composted it can sell for anything between $35 and $80 a tonne. As more material that is suitable for composting is collected, it is likely there will be an increasing demand for sites for composting in the near Adelaide—and I suggest that would be Mallala—to the Mid North regions. It may be because of odour problems that some limits will need to be placed on their location in these regions, with fixed minimum separation distances. Mallala District Council suggested in a submission to the committee on a different topic—the Draft Organic Waste Processing Composting Plan Amendment Report—that this distance should be at least one kilometre from individual dwellings and two kilometres from townships.

I turn now to the issue of expansion of our container deposit legislation. We received evidence that South Australia's container deposit system is strongly supported. We in South Australia are all justly proud of the cleanliness of our roadsides compared with other states. I know that my interstate visitors always praise it and tell me that they want to see the same system in their state.

In our report we quote from another report that was prepared for the New South Wales minister for environment. That report was the response to a critical assessment of an independent review of container deposit legislation in New South Wales. If one reads this, one would have to say the New South Wales government was obviously experiencing pangs of envy because in the major conclusions from that report it states:

> The recovery and recycling of used container materials to levels experienced in South Australia and other locations, which have a deposit and refund system, have not been achieved by a kerbside only system anywhere in the world and are unlikely to be so achieved. . . The increased recovery rates estimated in the independent review are based on best estimates of experience internationally in South Australia. . . The major benefit associated with the increased recovery and recycling of used container materials is the environmental benefits associated with reduced production of virgin container materials. This represents approximately $100 million to $150 million per year for the more than 1.5 billion containers that would be recovered by a deposit and recovery system.

South Australia comes up absolutely with its halo glowing on this. The previous Liberal government set in process the expanded CDL system which we now have, where drinks in

cartons were added to the list of containers covered by the 5¢ deposit. I was certainly supportive of the Liberal government's introducing those, but the problem with the system now is that it is very much a mishmash. There is no consistency. Different standards apply to fruit juice as opposed to fruit juice drinks. One wonders why because fruit juice is the pure unadulterated version. The fruit juice drink is watered down with water and sugar. But why have one covered and not another? The consequence of this evidence to the committee was that we recommended that all such containers up to three litres capacity should be included in the CDL's ambit.

Readers of the report will also note that the committee did canvass the issue of increasing the 5¢ deposit. It has been the same rate for 30 years. I come back to the District Council of Ceduna's written submission to us, because it recommended a significant increase in the deposit amount to a minimum of 20¢. Its submission stated:

> The District Council of Ceduna is of the opinion that the CDL has contributed greatly to the amenity of our state. However, the legislation is now some years old and is in need of review to further improve its effectiveness. The District Council of Ceduna considers that should the value of deposit paid on containers be increased (say to a minimum of 20¢) there would be a notable increase in the return of containers for deposit collection, and equally a decrease in the inappropriate disposal of the said items. The district and in all likelihood all rural districts have a significant problem with broken glass, almost invariably from beer bottles. Increased container deposits would hopefully contribute to the reduction of such inappropriate and dangerous disposal of these containers.

In fact, a public health benefit would come from increasing the amount of deposit on most of these containers, including beer bottles. The District Council of Streaky Bay advocated more industry responsibility in regard to the types of containers used, suggesting that they should be 'forced to use materials suitable for deposit for recycling through container deposit systems'. The council's submission states:

> If we are serious then the whole concept in relation to waste needs to be re-evaluated and waste prevention should become a first priority by industry during manufacture and packaging.

In evidence to the committee, Vaughan Levitzke, Acting CEO of Zero Waste SA, said:

> The beverage industry has very good lobbyists and has a lot of money at its disposal so that it can be provide cash incentives to 'Keep Australia Beautiful' in other states to encourage them not to adopt CDL. They are very persuasive in their arguments, most of which can be proven to be incorrect and that entree to a very high level of government.

John Phillips of KESAB also commented on the effective lobbying of the beverage industry in other states to stop CDL being introduced. He said:

> . . . they go to great lengths to discredit CDL through a variety of means. There are examples where they have reported South Australia's recycling as being one of the lowest in Australia but selectively. . . have left out the container deposit items that have been collected, which would very quickly increase the volumes to something that is probably leading Australia, not at the bottom of the rung.

John Phillips told the committee that there is an 88 per cent return of beverage containers through CDL, which is the highest beverage container return rate in the nation. There is less beverage litter in our litter stream than in any other state and less contamination in our recycled beverage containers than any other state, which means that it brings a higher market price for our products.

I would have liked to see the committee recommend an increase in the deposit, but some of the evidence suggested that we need to be careful about heading in this direction. It was suggested to us that it could raise issues of that hoary old chestnut National Competition Policy. Even scarier was the intimation that the interstate packaging industry, which has long opposed container deposit legislation, would use the opportunity of an increase to come in and do its best to destroy our system. Unfortunately, we tiptoed around that issue, and we did not overtly recommend an increase; rather, we have recommended that the government investigate it. After all, it has the lawyers at its disposal who would be able to look at an increase in terms of implications for National Competition Policy.

We also looked at the issue of alternatives to landfill. The Inkerman and Dublin landfill action group submission argued that the true cost of landfill from construction to post-closure costs must be factored into decision-making about landfills versus the alternatives. Alternatives to landfill exist, but they usually relate to an end-market; for example, Adelaide City Council's Wingfield dump has for some years been sorting out building and demolition waste for reuse, and 64 per cent of that is now being recycled. Mulhearn Wastes has been recycling oil from car and truck oil filters for some years, and it recycles 9 million litres of oil per annum. However, there is some material that almost all of us continue to throw out, such as film plastics, and it is very hard to avoid this. Everyone who gets a paper delivered to their house in the morning has it covered with film plastic and, in turn, we do not have avenues for recycling it. KESAB made a recommendation to us about waste overall, as follows:

> KESAB recommends an audit of South Australia's total waste stream be implemented, and higher volume items be identified and prioritised for diversion from landfill, and that business plans be developed embracing technological research underpinning increased processing and end markets.

I think that is a recommendation from KESAB that is very much worth taking on board given, for instance, what I mentioned earlier about the trial Japanese technology that is turning plastic back into diesel. Under those circumstances, if that proves to be successful, the plastic that is currently going into landfill ought to be pulled aside now. There are environmental consequences of waste dumps and problems associated with the post-closure management of landfill.

The Mid North Waste Management Strategy Group raised with the committee the concerns about leachate from the landfill at Dublin. Leachate from decomposing material can produce some very unpleasant odours, and modern planning of waste dumps now sees the provision of collection of leachate through pipes and channels laid down in the early stages of construction. Problems also rise with landfill in the form of gases, mostly methane, and the committee was told that these gases continue to be created for up to 30 years after the dump is closed. Many of the modern dumps now have appropriate technology that allows that methane to be collected and burned for power generation.

There is a problem for waste in general because the operators of the dump are usually not there 30 years after it has closed. Proper decommissioning is expensive and, in the past, when dumps have been planned, decommissioning has not been part of the plan. Max Harvey told us that amendments were being investigated for the Environment Protection Act to cover post-closure activities. One of the other issues that was raised with us that I thought was particularly of concern that the government needs to sort out was confusion over the role of the EPA in respect of Zero Waste. The EPA is the law enforcer, but it is also the rule-maker. Zero Waste is a policy body, but it will also be funding some projects.

The South-East Local Government Association called for these roles to be clarified. Daryl Sexton, of SELGA, stated:

From an owner/operator's viewpoint, we have a fair bit of difficulty in trying to understand the roles of all the organisations involved in waste management now. On the one hand we have the EPA as the regulator. Since the EPA has been split and Zero Waste has come into being, I am not too sure where the EPA starts and finishes and Zero Waste takes over. That is a real dilemma for us. We are not too sure who is pulling the strings and who is doing what.

He continued in his evidence to the committee:

We come to where the EPA sits in the whole scheme of things. We understand that it is the policeman, and that is fine. However, if you look at the recent draft landfill guidelines it has produced it is also the regulator. I am not too sure how a body can be both things. We would like to see that clarified. Zero Waste is a new authority, and, again, I thought that what it intended to achieve was ideal. I am still not sure what it is Zero Waste is trying to achieve or how it is going to go about it. Again, from a city council viewpoint, we would like to see those roles clarified, crystallised, as quickly as possible so that we know who is doing what in the state.

I asked a question of Mr Sexton on that point, to which he said about Zero Waste:

[It] gives some early indications that it is going to fund specific projects, but I am not 100 per cent sure in my mind what its role and function is in the overall scheme of things. I would like to see that clarified as a matter of urgency, if that is possible. The EPA continues to be a dilemma to us. . . So, as an owner and operator, we are fairly confused about where this thing is going. We are certainly extremely concerned about the ability of our community to pay for it, and we would like to think that somewhere out of all this system the state government would take control of this process and give us more direction in what we are trying to achieve.

Personally, I am not convinced that the EPA ought to be developing technical standards—they should regulate, yes, but not developing technical standards—because it could well be that the people who gave us advice on landfill constructions are the ones who hit us on the head a few years down the track telling us is not good enough. I will tell you what we would say then: we would say, 'They told us to do it: sue them.' I think that is a real dilemma and one that the government needs to be taking seriously.

So, on behalf of the many councils that are confused about the EPA and Zero Waste and their respective roles in relation to waste management, I urge the government to look seriously at the concerns that have been raised.

In conclusion, ideally, as a society and for our economy, we need to move towards zero waste creation. However, not everyone is an environmentalist and we need both carrots and sticks to urge everyone to participate in creating better environments.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

[Sitting suspended from 6 to 7.53 p.m.]

MENTAL HEALTH

Adjourned debate on motion of Hon. J.M.A. Lensink:

That the Social Development Committee investigate and report upon the range of assessment and treatment services for people with mental health disorders in South Australia, with particular regard to—

1. The adequacy of funding and staffing of mental health, particularly in community and accommodation services;
2. Best practice in the treatment of services for people with complex needs who have contact with the mental health, forensic and/or corrections systems;
3. The incidence and management of mental health in the prison population;
4. The impact of legal and illegal drugs on the mental health of both the general public and prison population;
5. The efficacy of diversion programs upon rates of recidivism;
6. The criteria for the release of mental health patients who are potentially dangerous;
7. The adequacy of supervision of offenders after release from those institutions, including those on parole;
8. The adequacy of offender discharge plans;
9. The identification of offenders' mental health difficulties; and
10. The definition of mental health in so far as the corrections system is concerned.

(Continued from 25 November. Page 710.)

The Hon. SANDRA KANCK: In looking at this motion, I am perplexed as to where I should begin, because it is so complex. It combines issues of mental health, drug usage and Correctional Services. It may be that, once the Social Development Committee has this referral, the committee will decide to split it into different parts. In fact, I have heard on the grapevine that there might be a move to refer this to a select committee, rather than the Social Development Committee. While I do not have any written notification to that effect, I indicate that, if such a motion does occur, I will vote against it, in part because of the complexity of the motion and in part because of the nature of various select committees we have at the present time. For instance, I have been a member of the Mount Gambier Health Service committee since, I think, November 2003 and, although we have mostly heard all the evidence, we have not got a report. We may soon, but at the moment we do not have a research officer, and this seems to be a problem that many select committees are dealing with at the moment.

The other thing I have also taken into account, in the event that a motion to amend this comes forward, is that, if a select committee is set up, most likely the Hon. Gail Gago, who is the chair of the Social Development Committee, would be on that committee, and the Hon. Michelle Lensink, as the mover of the motion, clearly would also be part of that select committee and, to some extent, you would see a duplication. You would think that, if these people are already members of the Social Development Committee, it would make sense to keep it with that committee. Particularly if it is a select committee, I suppose it could be set up again after the next state election, possibly with different people.

I am not sure what the status of the evidence would be. However, I do recall another select committee in 2001, namely, the Queen Elizabeth Hospital Select Committee, which was reasonably complex. Knowing that the committee would go out of existence when the election was called the following year, I ensured that we at least produced an interim report. But, then, when parliament was prorogued and that committee went out of existence, all of the evidence we had received was also unable to be brought into the public realm. So, from that perspective, if there is a motion to refer to a select committee, we should, in fact, keep this going to the Social Development Committee.

I know they have been dealing with equal opportunity issues at the present time and the inquiry on multiple chemical sensitivity had to be put on hold, but once the equal opportunity reference is completed, which I believe is going to happen this month, the committee would then be able to go back to the multiple chemical sensitivity reference, which was well and truly on its way. There is one after that—and I will wait to hear what the Hon. Gail Gago has to say if she should choose to interject—so I would take a guess that the committee would be able to get cracking on this before the end of the year.

The first item in these terms of reference is to look at the adequacy of funding and staffing of mental health, particularly in community and accommodation services. That could be a stand-alone inquiry. It is very well known that the community supports that were anticipated with deinstitutionalisation have been very slow to emerge. The Hon. Michelle Lensink in her speech quoted from evidence from the Social Development Committee's Inquiry into Supported Accommodation, and it was my motion from this chamber that resulted in that particular inquiry being set up.

One of the instigators for me in deciding to move for that was a consequence of visiting some of the supported accommodation facilities that we have in this city, and being shocked to find that the huge bulk of the residents were clients of South Australia's mental health services. If that was not enough, around about that same time in about 2001, a number of the smaller supported accommodation services began closing because of problems of financial viability, which meant that each time one of these closures happened there was an increased risk of homelessness for these particularly vulnerable people.

Last May, in anticipation of the state budget, I urged the government to act on the recommendations of the Social Development Committee's inquiry. We know that up to 90 per cent of people with mental health problems now live in the community, yet community services are not meeting current demands, and this is particularly true when it comes to accommodation services. Last year the Democrats called for an increase in funding for supported accommodation options to increase it from what was then 0.4 per cent of the mental health budget to 17.9 per cent of the mental health budget so that South Australia could begin to meet the benchmark set by the better funded states. We also supported the call of SACOSS for the government to increase funding for psychiatric disability support from 1.9 per cent to 6.8 per cent of the mental health budget.

Terms of reference No. 4 is another one that could be a stand-alone inquiry, and that is the impact of legal and illegal drugs on the mental health of both the general public and the prison population. However, I remind members that there was a South Australian Royal Commission into the Non-Medical Use of Drugs in 1979, and a great deal of what we need to know about this particular issue is inside the covers of that report. In the last 30 years, there have been at least 20 different government inquiries around Australia into illicit drug use, and almost all have recommended a change to harm minimisation policies, rather than the tough-on-drugs approach that is so beloved of governments around this country.

What is different now from then is that, as governments have got tougher, it has encouraged the use of hydroponics to grow marijuana with what are apparently stronger strains, so that the growing is not visible to anybody passing by. Some people suggest that this may be having an impact on increased rates of paranoia and schizophrenia in our community. The popularity of heroin and cocaine has waned to be replaced by so-called designer drugs. The pills commonly taken at rave parties is known generically to many in the community as ecstasy, although ecstasy is only one of the many versions available.

This particular term of reference could take us in the direction of the issue of over-prescribing of drugs for ADHD, although that is another inquiry that the Social Development committee has already undertaken. I mention this because it has links to another of the terms of reference, that is, the issue of mental health in the prison population, because 25 per cent of male prisoners throughout Australia have ADHD. If submissions to the committee raise this, it will have some very interesting implications for our education, health and correctional services systems.

Earlier this year, I lodged a submission with the state government's review of mental health legislation and, although my submission was not exhaustive, I want to put on record some of the concerns I raised in that submission. One was the tendency for overloaded health professionals to resort to prescribing drugs, rather than cognitive therapies. Medication alone does not help people with mental illnesses develop coping strategies, and if you are living in rural areas that is often all you can access, the prescribed drugs.

Drugs are a useful intervention. They can break into the cycle of intense depression and paranoia, but often mental illness is not merely a case of chemical imbalance in the brain, and the root causes need to be tackled. I think that there is a very important role for psychologists to play in the treatment of people with mental illness, but unfortunately there is no Medicare rebate available, and only those people with appropriate private health insurance have the luxury of treatment by a psychologist. As for psychiatrists, try getting an appointment. I have had so many reports of people trying unsuccessfully to get themselves admitted to psychiatric care.

Last November, I wrote to the Minister for Health about one unfortunate young woman who was turned away from a hospital accident and emergency department, got a taxi to take her up to the South-Eastern Freeway, where she told the taxi driver to stop. That was on top of an overpass. She got out of the taxi and jumped over. So she got herself a bed in the hospital, but perhaps not on quite the same grounds as she had originally been seeking. I was not able to get details from the minister as to the extent of this woman's injuries, but I know she spent the next four weeks in hospital. The minister's response to my letter indicated that the Department of Health Exceptional Needs Unit would be taking on the management of this woman's care this year, but what extreme actions does a person needing help have to resort to before they can get appropriate care? Is jumping off a bridge the only way?

At a federal level, the Democrats have initiated a national inquiry into mental illness, so we will need to be mindful that we should not duplicate efforts. From that perspective, there may be good reason for a little slowing down on this, so that we can be aware of what is happening with the federal inquiry, and what directions that is taking. I have written to that committee, asking them to ensure that they come to South Australia to take evidence. As I said in my submission to the mental health legislation review earlier in the year, we need a system that ensures that people with serious drug and mental health problems are not falling through the cracks. The Democrats will be supporting this motion but I remind members that shelves already groan with the weight of reports and recommendations. Ultimately, no matter what submissions are received, how many witnesses the committee hears and what recommendations the committee makes, in the end it will take political will to turn things around.

The Hon. A.L. EVANS: The Hon. Michelle Lensink's proposed inquiry is long overdue, and it is urgently needed. The recent experience of Cornelia Rau and her family has been somewhat of a wake-up call for Australia and a sure sign that all is not well in the state of mental health care within both the state and federal areas of responsibility. More

than a quarter of a million people—or up to one in five South Australians—experience mental illness annually. For a range of reasons, the incidence of mental illness appears to be higher than that experienced interstate so that, although funding levels appear to be comparatively favourable with other states and territories, some have said that true comparisons are not so favourable.

The South Australian mental health care system is said to be in quite a state of neglect. A range of expert groups and others with much better experience of the system describe endemic neglect and grossly inadequate services and supports. The problem is evidenced on the streets, our Housing Trust neighbourhoods, in our prisons and, indeed, throughout the community. My office has met with constituents who have been struggling to deal with this neglect at both a professional and personal level. The police are frequently faced with the impossible task of trying to deal with those suffering mental illness who have been left completely unsupported.

I have heard that the police themselves often feel completely unsupported in their efforts to deal with people in crisis or simply not managing with basic life needs. Police have described the frustration of trying to sort out basic problems of shelter and medical attention for vulnerable people barely managing to eke out an existence at the margins of our society. Their frustration is compounded by their lack of skill in this area, and it would seem that it is not the police who should be left to deal with these situations. Police burnout is a real issue as basic medical and social support does not materialise, and these ill or disabled people end up falling foul of our criminal justice system.

The suffering of these people and their families is enormous. Critics have alleged that the meagre resources allocated to mental health are misdirected to acute care whilst very little is done to prevent mental health crises through adequate support and services in the community. Others, including families and police, describe frustration with crisis response. The Mental Health Lobby Group has pointed out that psychiatric disability rehabilitation support services have often proved effective in avoiding relapses, promoting health and recovery and reducing hospital admission rates.

Such services would include accommodation and in-home support, social, recreational and vocational skills training, respite services and consumer and caring information and education. They go on to remind us that the Generational Health Review Final Report of 2003 reinforced the need for urgent additional funding to establish community-based alternatives to hospital care. It recommended a significant injection of funds to meet psychiatric disability support needs, including supported accommodation options. This parliament's Social Development Committee's Inquiry into Supported Accommodation (2003) emphasised that psychiatric disability services were virtually non-existent in South Australia.

The report recommended the urgent development of a strategic planning and funding framework for psychiatric disability support services, including supported accommodation. A major national report, Out of Hospital Out of Mind (2003), based on consultation with consumers and carers, stressed the need for a significant investment of funds to support people in the communities where they live. The Productivity Commission Report on Government Services 2004 (based on available data from 2001-02) showed that expenditure on hospital services continues to be far too high (61 per cent). This is 30 per cent above the national average (47 per cent).

Expenditure on supported accommodation in the community is an appalling .4 per cent of the mental health budget and the lowest in Australia. This is 98 per cent less than the average of the three best funded states (17.9 per cent). Expenditure on psychiatric disability support services that help people live in the community has declined from 2.5 per cent to 1.9 per cent of the mental health budget. This is 72 per cent less than the average of its two best funded states (6.8 per cent). The Hon. Michelle Lensink has also noted that Australian funding and services overall do not look good at all in the light of international comparisons.

Nursing Federation secretary Lee Thomas said that South Australia's over-reliance on hospital care is putting mental health patients at risk. She describes how patients are being moved through the system far too quickly and discharged prematurely and without adequate community support. Frances Nelson QC has sought to raise her concerns with the mental health issue in our prison system. Last year she said that 80 per cent of prisoners in the Port Lincoln prison were on medication; 35 per cent of women in the women's prisons have serious mental health problems; and the incidence of psychosis and other mental health issues in our prison population is roughly 20 times that of the general community.

In a report in *The Australian* in August last year, Ms Nelson described the state's correctional services system as a mental illness 'sump'. She said that the deinstitutionalisation of mental health had flooded the community with psychiatric patients who offended and re-offended because the prison system could not properly treat them. In that report, the Correctional Services Department Chief Executive, Peter Severin, said that the state's prisons were receiving increasing numbers of prisoners with some form of mental illness.

Worrying statistics for the South Australian Correctional Services for March to June 2004 indicated that 90 per cent of females and 20 per cent of male remandees were referred for psychiatric assessment, and 35 per cent of female and 30 per cent of male remandees had psychiatric or self-harm histories recorded on the Justice Information System. Of the 208 self-harm incidents at state prisons/remand centres between January and March, 58 per cent of the females and 50 per cent of male prisoners had psychiatric or self-harm histories.

Ms Nelson also said that our correctional officers are not trained to deal with this situation, and that there is not enough psychiatrists or psychologists in the criminal justice system to support them or those who are ill. She has also been very critical of the lack of secure and acute beds in the system which, in recent years, has led to quite a few tragic outcomes. She and many others have also raised serious concerns about the dearth of support and services outside the metropolitan area of Adelaide. Ms Nelson and others (such as Dr Jonathon Phillips) have always sought to raise the alarm over the failure of our criminal justice system and our mental health system to address adequately the rising incidence of drug-induced mental illness and psychosis.

I have previously raised concerns and questions about the failure of our state to tackle the problem of drug abuse. Our present strategies are clearly failing, and the consequences are tragic for the individuals concerned and their families and our society. Early last year there was a report of a serious decline in morale for mental health workers who are said to be feeling 'ground down by the system' that is supposed to be helping and treating patients. At the time, the Australian

Human Rights Commissioner reported being told that some staff were being harassed for questioning the system and that new ideas were actively discouraged.

The Mental Health Council for Australia Chairman, Keith Wilson, said that the people working at the coalface are feeling that their principles and ethics are being compromised by their having to offer a standard of care which they know is totally and utterly inadequate. The Hon. Michelle Lensink spoke at length of the range of issues and concerns about the state of the mental health system and its impact on our society. Other members have also spoken about various aspects of the problem on many occasions. As I said earlier, this inquiry is long overdue.

The terms of reference are broad ranging and deal with serious and pressing issues relating to the way in which South Australia is responding to psychiatric illness and disability. The level of distress and suffering in the community and within the various institutions and systems dealing with the problem is enormous. Such an inquiry would be more appropriately handled by a select committee. The Social Development Committee has a range of issues on its agenda already. I urge honourable members to support my amendment to the motion of the Hon. Ms Lensink so that it can be so referred. I move:

Leave out the words 'That the Social Development Committee' and insert 'That a select committee be appointed to'. After paragraph 10 insert—

(2) That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

(3) That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

(4) That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

The Hon. NICK XENOPHON: I speak in support of this motion, and I commend the Hon. Michelle Lensink for moving it and for her contribution. Rather than canvassing what a number of speakers have already set out quite comprehensively, I would like to focus on a couple of issues that have arisen out of tonight's debate. The Hon. Sandra Kanck, in her usual erudite contribution, has spoken about the fact that in 1979 there was a royal commission into drugs and their impact and, obviously, that is something that any committee could look at. However, I believe that, in the past 26 years, there has been a difference in drug use patterns in our community.

The Hon. Sandra Kanck: There are about 20 other reports it can refer to.

The Hon. NICK XENOPHON: I acknowledge that. There seems to be a very big difference between the cannabis that may have been available in the Bob Dylan generation and the cannabis that is available now, in terms of hydroponic cannabis. The medical evidence indicates that that is much more potent and, as I understand it, in some cases it is more likely to cause severe psychiatric problems. The rise in the use of amphetamines in the community is also very worrying in terms of its impact on mental health.

I heard what I thought was a very candid and direct interview with Dr Jonathon Phillips, the Director of Mental Health in this state, on the Leon Byner program a number of weeks ago. Dr Phillips acknowledged the impact of amphetamine use, in particular (and also, I believe, cannabis use), in terms of people presenting with psychotic episodes having very serious psychiatric problems arising out of or triggered or exacerbated by that drug use. I think that is an important issue that needs to be dealt with. I think that the impact of legal drugs on mental health also should be acknowledged in terms of alcohol abuse and drugs that are available on prescription—a whole range of drugs that are regularly prescribed—the misuse of which can cause significant problems.

I think this is a very timely motion. I believe that only good will come out of this inquiry, given the debate about the eventual closure of Glenside Hospital. I know the government has said that it is building other facilities, but I have a real concern that the trend towards deinstitutionalisation we have seen for over a generation now has not been a good thing; it has had all sorts of disastrous implications. When Associate Professor Robert Goldney spoke out on the issue of deinstitutionalisation he referred to the word 'asylum' in the original and best use of the term—that it was a sanctuary for people who needed help—and that what we have seen with respect to deinstitutionalisation is that there are people out there in the community with a significant mental health problem who, at the very least, should be in supported accommodation. The Hon. Sandra Kanck and others have referred to that. However, in some cases, because these individuals are a danger to themselves, their families and the community at large, the question of deinstitutionalisation becomes even more pressing.

I commend and support the motion of the Hon. Michelle Lensink and I look forward to this committee's deliberating and handing down what I hope will be a comprehensive report that will advance the public policy debate on this very important issue.

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): In rising to speak to the motion, I am pleased to see that the opposition has finally developed an interest in mental health, because it showed very little interest throughout most of its term in government. In fact—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: No; you just want to keep Glenside as a special place. In fact, the former government realised quite late in the day that it had dropped the ball on mental health, so it called in a consultant, the result of which was the Brennan report. In 2000, Dr Brennan reviewed mental health services in South Australia in the 1990s and came up with some recommendations that the late Margaret Tobin was brought in to help implement. Dr Brennan lamented the decline of mental health services during the 1990s, after the very good quality of services available in the 1980s. He observed that, during the 1980s, mental health services in South Australia were regarded as the best in Australia. That was the time when people came to this state to see how it was done.

However, because of the neglect of the previous government, we have seen a significant decline in mental health services in the past decade. South Australia went from leading to lagging. The Brennan report found that everyone associated with mental health in South Australia acknowledged that there were systemic problems with mental health services in South Australia. It found that there was, in fact, no coherent mental health system: it was a fragmented system without a clear strategic direction. Indeed, the structure of mental health services under the previous Liberal government was described by the Brennan report not just as being fragmented but also as being inadequate and dysfunctional.

Those are the words of the previous government's own consultant, Dr Brennan. Dr Brennan warned that failure to act and implement much needed changes would guarantee another decade of disillusionment that would further disadvantage South Australians.

We know that the previous government did not act, and this government inherited a mental health system that was in chaos. This government is committed to acting, and we have already begun delivering on mental health. This government does not fear attention being drawn to mental health services in this state: it is quite the opposite. We understand that more attention needs to be paid to mental health; that mental health is not something to be covered up or downplayed. That is why the Premier has stated that mental health remains a priority of this government. That is why the Minister for Health has consistently stated that mental health is a top priority, and that is why I was recently appointed as Minister Assisting in Mental Health. My appointment underscores this government's commitment to mental health.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Perhaps the honourable member who is interjecting should acknowledge that, indeed, one of his former interstate colleagues, former premier Jeff Kennett, welcomed the Liberal opposition in another state focusing on mental health. I am a new minister, and I am still coming to terms with the complexity of mental health reform issues. My first job in this new portfolio area will be to go out and have a look at what is there on the ground and listen to people and learn from their experience. I am more than happy to come back to honourable members when I have done that and report on my observations in this important area. My job will be to encourage participation and strengthen engagement at various levels of the mental health reform process. This means engaging a broad range of community, consumer and professional groups in this state, and that is exactly what I will be doing. So, do we need yet another review of mental health? I do not believe so.

Earlier this year, the commonwealth government appointed a senate select committee on mental health services. This inquiry is focused on the provision of mental health services at a national level. Its terms of reference cover many of the issues looked at by the Generational Health Review. For example, the senate inquiry will consider how the federal government can better focus on: the role of primary health care and promotion, prevention, early detection and chronic care management; and the adequacy of various modes of care for people with a mental illness, with particular focus on prevention, early intervention, acute care, community care, after-hours crisis services and respite care. It is also looking at the promotion of recovery-focused care through community involvement, peer support and education of the mental health work force.

These are all things that need to be explored at a national level. But, at a state level this government has already looked into these issues. The Generational Health Review did that. We all know what the problems are and what problems we inherited from the previous government. We know what we need, and what the community deserves is action, and it is action that this government is delivering.

The Hon. R.I. Lucas: Close Glenside!

The Hon. CARMEL ZOLLO: We have a number of very good mental health programs up and running in this state. I say to the member: we do not care about just the people in the eastern suburbs; we care about everybody. We are already beginning to deliver better community-based mental health services. We have provided a 15 per cent increase in recurrent funding for mental health since coming to office. That is an extra $20 million per year more than the previous government was prepared to spend. We have committed $80 million in capital works to build modern mental health facilities. The Minister for Health recently announced the 24 hour, 7 day a week mental health crisis teams, to be run in conjunction with the South Australian Ambulance Service. We have committed $57 million over five years for supported residential facilities, many of which house mental health consumers.

The Hon. J.M.A. Lensink interjecting:

The Hon. CARMEL ZOLLO: We have committed: do you know what that means? This government has a commitment to reform mental health services in this state, and we are already delivering on that commitment. I think the honourable member just liked *One Flew Over the Cuckoo's Nest*. We have a mental health system that has been neglected, and we have already begun to turn that around. We have a clear direction for mental health services in South Australia. We do not need another report into mental health services in this state. What we need is to keep moving forward with our mental health reform agenda.

I urge honourable members to not support this motion. We, of course, are not running away or scared of this motion. I can count the numbers, so I know that we do not have the numbers in the chamber this evening. I urge honourable members to think before they vote because we do not need another report into mental health services in the state. However, we are certainly not worried about the challenge.

The Hon. R.I. LUCAS (Leader of the Opposition): I was not going to make a contribution on this matter, but I have been provoked into a brief response by the appalling contribution from the Minister Assisting in Mental Health.

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: By way of interjection the minister now puts it on the record. The Minister Assisting in Mental Health is part of a government which went to the election with a specific and clear commitment to the people of South Australia. They said to the people of South Australia in relation to mental health that they would keep open Glenside—and, indeed, they told the people not only would they keep open Glenside but they would also develop, extend and provide further facilities at Glenside, as I highlighted during question time I think it was yesterday in terms of further services that were committed.

The Minister Assisting in Mental Health says that this government has committed over the next three, five or seven years to do certain things in the mental health area. The challenge I put back to the minister and to the Rann government is: is this commitment as strong and as definite as the commitment they made in 2002 to keep open Glenside? Why would anyone believe the Minister Assisting in Mental Health? Why would anyone believe the minister when you cannot believe the commitments they have already given in relation to mental health? They went to the election promising to keep open Glenside and now they are going to close it.

The minister has the effrontery to stand in this chamber and say, 'We are now committed to doing this and to doing that.' Who is going to believe them? No-one will believe the minister, and no-one will believe the Rann government in relation to these issues because their record is there for everyone to see. They make promises and then they just break them. As long as it is not, in their judgment, required

politically for them to proceed down a particular path, if there is not the focus on it, they will quietly break those promises and hope they can get away with it. As we highlighted in question time today—

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: Well, we are the ones committing to keeping open Glenside. Did you or did you not promise to keep Glenside open?

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Leader of the Opposition has the call.

The Hon. R.I. LUCAS: Thank you, Mr Acting President. My challenge, through you, Mr Acting President, to the minister is: did this minister, and other ministers, promise to the people of South Australia that they would not only keep open Glenside but that they would actually further develop it and extend the services?

The Hon. Carmel Zollo: Did Dean Brown promise to do what we did and didn't do it? He dropped the ball completely!

The ACTING PRESIDENT: Order! The Leader of the Opposition has the call.

The Hon. Carmel Zollo: Well, he is looking at me.

The ACTING PRESIDENT: All comments will be directed through the chair.

The Hon. R.I. LUCAS: Let *Hansard* record that appalling response from the minister. When challenged to answer the question in relation to whether or not this minister and her colleagues would keep Glenside open, she refused to answer that particular question. She is embarrassed by the question. She refuses to answer that question because she promised prior to the election something which she knows to be popular with the people of South Australia, but now she and her colleagues are quite happy to flagrantly break their promise and flagrantly break their earnest commitment to the people of South Australia and to the families that would have been attracted to the popular policy promise that the Rann opposition made in 2002. But, having been used by the Labor opposition, the Rann Labor government now just throws the hard-working and concerned families involved in this area of health on the scrap heap. The government is not concerned at all in relation to the commitment that it gave prior to the election to the people of South Australia in relation to Glenside.

The only other point I raise is that, as you will be aware, Mr Acting President, the minister through her inexperience this week was required by the Hon. Michelle Lensink (and congratulations to my colleague) to table a confidential document that had been provided to her in relation to mental health issues. I understand that the Minister for Health is furious with the minister assisting, and certainly the minister's staff and the spin doctors are doing the corridors at the moment. They are certainly not singing the praises, if I can put it that way, of the performance of the Minister Assisting in Mental Health yesterday during question time. That document has revealed, for example, if we are talking about—

The Hon. R.K. Sneath: Let Family First do your dirty work.

The Hon. R.I. LUCAS: The Hon. Bob Sneath says that we should let Family First do the dirty work.

The Hon. R.K. Sneath: They are doing the amendment for you.

The Hon. R.I. LUCAS: We are seeing here a concerted attack by, first, Premier Rann, and now by one of the leaders of the left faction, the Hon. Bob Sneath, on Family First and the Hon. Andrew Evans. We are aware of the attacks being made by the Labor Party and senior people on the Hon. Andrew Evans in the corridors and with the media at the moment.

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order! The Hon. Mr Sneath will have the opportunity to make a contribution if he so wishes. At the moment he is out of order.

The Hon. R.I. LUCAS: I will refer now to the document that was tabled yesterday. This minister is saying that the former government was terrible and this government is fantastic in relation to mental health issues. I think that is a fair summary of what this minister was trying to tell the chamber. The former government did everything that was wrong and this government is doing everything that is right; and really we do not need to look at this particular issue.

I hoped I could put a more realistic position to this chamber. This issue is one which governments of all persuasions ought to acknowledge that they have not tackled properly in their time in government. The previous Labor government, the previous Liberal government and, certainly, this Labor government could have and should have done more in this important area. My colleague the Hon. Michelle Lensink is asking members in this chamber to look at a range of issues in order to see how we can improve our policy responses in this particular area. While the minister sought to portray the Rann government as the source of wonderment and glory in terms of mental health policy, the document that was tabled yesterday relates to one of the most critical areas—the area of mental health for young people.

I know that many members in this chamber over how ever long they have been in this parliament have shared concerns in relation to the mental health issues of young people. I can go back to the 1980s when people such as the Hon. John Cornwall (then minister for health) and I were first raising the issues of suicide and depression in young people, in particular young males, as a major issue. Not surprisingly, that issue continues to be an important one.

I would be very surprised if there were not members of all parties represented in this chamber who would say that one of the most important issues we need to be addressing is the issue of mental health, in particular depression, the anti-depressants many young people are taking, the treatment they endure and the lack of resources and facilities available in terms of hospitals, health facilities and clinics for young people and their parents, who work with those young people as they fight their way through depression and anxiety, whether it relates to lifestyle choices, difficulties at work or in the schoolyard, their mental problems, together with their medical problems, or the lifestyle and drug choices those young people have gone through, as referred to by other members in this debate.

It is one of the most critical areas that we as a chamber ought to be addressing, but what has this government done in that area? In the May budget last year it made a specific commitment in relation to capital works and facilities for children and young people. What we find in the document tabled yesterday is that this government has jettisoned that particular commitment. It made it in May last year—a very popular promise in May last year—which has been trumpeted by the Rann government for the past 12 months, and quietly it has jettisoned that for other priorities and put it off until 2008-10; and it is running around the state saying, 'We are fantastic. The former Liberal government was terrible. We are spending $80 million on wonderful new facilities.' Yet in the

critical area of children and young people—a promise that was made in the May budget last year—you, as the Minister Assisting the Minister for Health, are walking away from that particular commitment. If you ask other members in this chamber, they would probably say to you that the facilities for children and young people and families working with them in the mental health area ought to be one of the priorities that this government, this chamber and this parliament ought to be supporting. You ought to be ashamed—

The ACTING PRESIDENT: Order! I remind the leader to direct his comments through the chair.

The Hon. R.I. LUCAS: The minister ought to be ashamed of being part of a government that jettisoned the future of children and young people in the area of mental health. This minister has been in the chair for only some weeks, and on a critical issue such as this she is a party to jettisoning such a critical promise. No wonder—

The Hon. Carmel Zollo interjecting:

The ACTING PRESIDENT: The minister will come to order!

The Hon. R.I. LUCAS: —she was embarrassed yesterday when she was required by a vote of this chamber to table that document. When that document was tabled, your duplicity as a government was revealed—

The ACTING PRESIDENT: Order! The remarks will be through the chair.

The Hon. R.I. LUCAS: —and was apparent to everyone in this chamber. That is why the minister did not want to table that document yesterday. That is why it took a motion of this parliament to require this minister to have that duplicity revealed to all members in relation to this area.

With those few words, I indicate it was not my intention to speak in this debate until unfairly provoked by this minister on this issue. Certainly, I join with my colleague the Hon. Michelle Lensink, and I congratulate her on her motion, which will be voted on this evening. In supporting it, I urge those members who work on the committee to direct their attention to the critical issue of the problems of children and young people, youth suicide and depression, the anti-depressants and drugs and other treatments, and the lack of resources and facilities that are available. I hope that whoever is in government after the next election in March next year will be well armed with expert advice from this committee—select, I hope, or standing; whatever is decided—so that the next government, rather than this government, might give greater priority to these particular issues for children and young people.

The Hon. J.M.A. LENSINK: First, I thank all members for their contributions on this important issue. I particularly enjoyed the contribution of the newly appointed minister and a number of her retorts, which relate to the previous government, and just remind her that being part of a government elected more than three years ago, perhaps the level of outrage should be directed at her own Treasurer. This is also a government that has engaged in shooting the messenger in a number of areas, including areas which are covered by this motion. To the cynics who say we have had enough reports, maybe we have.

I have been in this place for less than two years and in that time, since I commenced on the Social Development Committee, I have been hearing about and reporting on supported accommodation, which also cuts into some of these areas. It is clear a number of other areas need to be addressed, as well. I point out that one of those areas is the important area of corrections, where we are being warned by people who work in that area and other experts that there is increasing crossover. Because it is a crossover between several departments it is easy for the old duckshoving to happen and for departments to try to recategorise people so they can say, 'It's not really our problem.'

As the Hon. Nick Xenophon mentioned, there is an increasing use of illicit drugs, and people who work in that area, in particular Dr David Caldicott from the Royal Adelaide Hospital who deals with these people, say the demand for services for people who have psychoses and schizophrenia and who are endangering themselves is increasing. For those different reasons, these are expansive terms of reference, but I think it is necessarily so, if we are to look at the complete picture rather than just address different parts of it as perhaps some of the previous inquiries have.

As a member of the Social Development Committee, I am well aware of the sort of program that we have, which right from the start of my appointment has always been very busy. We have a term of reference which will be getting underway once the two terms of reference that we are dealing with are concluded, so I do not see something which is as important as this commencing even within this year.

I will not go over all the material that I covered in my first speech, which was particularly long in my terms; unlike the lawyers, I am not great at making very long speeches. However, I noticed that the speech I made when moving the motion ran to three pages without me having to try at all. In addition to health professionals, Frances Nelson of the Parole Board has had great concerns about this particular area. We have had comments from Peter Severin from the Department of Correctional Services. Monsignor David Cappo, the chair of the Social Inclusion Unit, has commented on mental health issues, as has David Phillips himself. For all of those people, who are eminent persons in their area, to go on the public record about mental health and the lack of adequate services, I think is quite significant.

Since I gave that speech, a number of articles have been published which I think point to the fact that this issue will just not go away. I will read them on to the record. *The Advertiser* of 16 December last year carried the headline 'MPs question release of homicidal man'. Other headlines were as follows: on 30 December last year, 'Stigma stunting mental health funds'; on 21 January this year, 'Mental health wish list' which is from the AMA; of course, we had the very sad and tragic episode of Cornelia Rau in February; on 18 February, 'Battling guilt and society's stigma'; on 25 February this year, 'State of mind needs our help'; on 15 March, 'Mental health funding lowest'; on 23 March, 'Mental health patient barred'; and on 28 March, 'Cuts leave mentally ill in cold'. I think that indicates that, as this issue is hitting the press, clearly it is not something that will go away. It is high time for it to be addressed. If, as the minister has said, she has nothing to hide, she should welcome this inquiry to guide her in her role as the Minister Assisting in Mental Health. I commend the motion to the council and I look forward to us reporting in due course.

Amendment carried; motion as amended carried.

The council appointed a select committee consisting of the Hons A.L. Evans, Gail Gago, J.M.A. Lensink, A.J. Redford and C. Zollo; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 6 July 2005.

CHILDREN'S PROTECTION (MANDATORY REPORTING) AMENDMENT BILL

In committee.

(Continued from 4 April. Page 1443.)

Clause 3.

The Hon. CARMEL ZOLLO: When we last sat, I indicated to the chamber that we would not be supporting the amendment of the Hon. Robert Lawson but, after further discussions with my colleagues, it has been decided that we will support the Hon. Robert Lawson's amendment in that it makes it a better piece of legislation and, at least, more in line with the spirit of Robyn Layton's report in relation to the confessional. As previously placed on the record, the government will be introducing its own legislation as part of our commitment to protecting children. Given that we will be proceeding with our own legislation, we will not be supporting the third reading of the bill.

Our government bill, which will be introduced in the near future, seeks to provide greater safeguards to those children who are at risk of harm, provide for better care for those children who are removed from their families and cannot return because it is not safe, provide for a child safe environment, as I have just mentioned, establish monitoring and review bodies, including the Child Death and Serious Injury Review Committee, a guardian and council for the care of children, and extend mandatory reporting to ministers of religion and identified officers in all community organisations providing services or support to children. That is why we do not support this piecemeal legislative reform, and that is why we opposed the bill at the second reading stage.

In relation to mandatory reporting, a mandatory reporting clause has an important part to play in the protection of children. In this state, there is a longstanding commitment to mandatory reporting by many professionals; however, it is important to note that those concerned for children would take whatever action they have at their disposal, including making reports, and do not require legislation to persuade them. Mandatory reporting alone will not protect children. It does not by itself guarantee that a child will be safe; rather, it alerts government agencies to suspicions and concerns that a child may not be safe.

Mandatory reporting is only one component of a framework to ensure the safety of children. The Child Safe framework that the government is preparing to introduce covers much more than reporting. It seeks to ensure that all organisations have an understanding of their duty of care to children to prevent child abuse, protect children from predators and to make sure that effective and timely processes are in place when harm is suspected or has occurred.

The issue of whether to include confessionals is always going to be controversial. The sanctity of the confessional is very topical at the present time; however, it is important to note that, even if information is disclosed in the confessional, a minister of religion can still make a report based on information gleaned from broader interactions with parishioners and other personnel. The commitment to doing so will come from recognition of a sense of duty and responsibility to protect children from harm. Similarly, ministers of religion need to have an understanding of and commitment to the requirements of restitution in the confessional which can include advising a person to confess their behaviour and actions to an appropriate authority such as the police. Robyn Layton has spent considerable time examining this question, and we support her recommendations regarding this. The challenge is to create a system that provides a child safe environment, and this requires a far more comprehensive approach.

That is what we will be providing in our new legislation. I remind honourable members that on 2 June the Deputy Premier reminded us of the importance of ensuring that children are to be protected in all settings and that it is crucial, as part of the government's commitment to protecting children. The child safe environment framework mentioned earlier will provide the basis for moving forward. This contains a holistic approach to the prevention of abuse.

The child safe environment framework provides a more comprehensive and effective basis for preventing child abuse and for protecting children. At the end of the day, the government has a responsibility for guiding all organisations to adopt a preventative approach to child abuse, as well as helping them put in place appropriate processes for when a child may have been harmed. The best way forward is to promote and facilitate common approaches across all community organisations, including church agencies. This broad approach extends our initial thinking, which was initially focused on churches because of events at that time. This approach acknowledges that church organisations are particularly important because of that relationship of trust, and they are also part of the wider community where children live.

The Hon. KATE REYNOLDS: Other members may want to comment on this as well at some point, but I think we have all been extremely tolerant in the past couple of minutes in relation to the government's extraordinary rhetoric on this issue. I do not think I have heard so much rhetoric in such a short space of time since I was at a rally this morning and the Minister for Families and Communities spoke. I think that, if the government was to talk to some of the social workers at the coalface who are dealing with the tier 1 notifications that have against them RPI (and members who take an interest in this matter will remember from previous questions I have asked that that means resource prevents intervention or investigation), they would be as angry as I was when listening to the minister's response to the concerns we raised in debate on, I think, Monday.

I cannot think of a single child who is currently at risk, or trying to survive the consequences of abuse or neglect, who would be the tiniest bit assured about a thing called a 'child safe framework'. I would be grateful if the minister would return to the concerns we raised on Monday when we were debating the amendment, specifically the questions I asked (and I think other members also raised this issue) about the pro forma questionnaire, which the Hon. Carmel Zollo said in her earlier speeches had been sent to all religious organisations, asking them to provide feedback on the bill introduced by the Hon. Nick Xenophon. I think the minister undertook to provide what information she has, but I have not yet heard that response. As I said at the time, taxpayers funded that survey. We do not know what the questions were, and nor do we know the response. So, I would appreciate it if the minister could deal with that matter.

In order to help all honourable members come to a decision about this amendment, I would be grateful if the Hon. Carmel Zollo could also outline when the government intends to introduce that legislation. As I think we highlighted the other night, it is nearly two years since the government started saying that it would do so, but we have not yet seen a single thing, and nor have we yet seen the child safe

framework. So, I ask the minister to return to those unanswered questions about the results of the survey that was sent out in 2004 (it was certainly before July 2004, because that was when the minister said that it was sent), and also the question of when the government intends to introduce its own legislation.

The Hon. CARMEL ZOLLO: I advise the honourable member that, because our proposed measures will take a broad approach to creating a child safe organisation, we intend to consult with churches and other organisations after the bill has been drafted. The drafting of the bill is with the minister at this time, and I guess the legislation will be introduced as soon as we can possibly make it happen.

The Hon. KATE REYNOLDS: Will the minister clarify the following: that, no, the government is not prepared to provide us with information about the questions that were asked; that, no, the government is not prepared to provide us with the results of that questionnaire; and that, no, the government is not prepared to tell us when it might introduce its own legislation? Yes and no answers would probably shorten the debate.

The Hon. CARMEL ZOLLO: I believe I responded to the honourable member's question the first time.

The Hon. R.D. LAWSON: The minister indicated that the government supports the recommendations made by Robyn Layton QC, now Justice Layton. Am I to understand from that that the government will be supporting my amendment, which is consistent with those recommendations?

The Hon. CARMEL ZOLLO: I do not think the honourable member was in the chamber at the time I indicated that, after further discussion with my colleagues, it was decided that we would support his amendment, because we believe it would make for better legislation.

The Hon. NICK XENOPHON: I think it is important to a put a number of matters on the record with respect to this debate and its chronology, and it was touched on most recently on Monday. On 17 February 2003, the Premier (Hon. Mike Rann), in a media release headed 'Child Protection Review', referred to the fact that on 25 March, shortly after the new government had been sworn in, he announced a comprehensive review of child protection in South Australia to be conducted by Ms Robyn Layton QC, now Justice Layton. The media release goes on to state:

> It has been revealed that the number of mandatory notifications of abuse of children in South Australia increased by more than 6 000 to 16 000 in the four years to 2000-01. Whether this is partly due to increased abuse or simply increased awareness of reporting procedures for abuse, these are appalling figures. I am sure that every member of the house is shocked by these figures.

The Premier goes on to say:

> The Layton review will contain more than 200 recommendations, and we will call for a major overhaul of our child protection laws.

That was back in February 2003—

An honourable member: And it is now when?

The Hon. NICK XENOPHON: It is now 6 April 2005, and the Layton report was handed down in March 2003. On any reckoning, it was made very clear in the Premier's own release the importance of mandatory notification. With respect to the minister, I agree that mandatory notification is but one component of a framework of child protection in this state, but surely it is a pivotal component and a key foundation because, unless we have notifications in the first place that are instigated appropriately, we will not know the extent of abuse of children in this state.

The Hon. Carmel Zollo interjecting:

The Hon. NICK XENOPHON: The minister says that it is actually neglect in relation to mandatory reporting. But it also relates to issues of neglect where a child's life may be in danger and also, of course, child sexual abuse, which is an absolutely heinous crime. That is what was put by the Premier on 17 February 2003. The Layton report was handed down in March 2003. I do not want the Hon. Mr Lawson jumping up and down, suggesting that I am in any way going to mislead the chamber. However, I make it absolutely clear that the recommendation was that mandatory reporting be extended to church workers and volunteers, priests and ministers of religion, as well those in recreational services organisations. This bill takes that recommendation on board, but it goes a step further with respect to the confessional, and I will refer to that matter briefly.

What disturbs me greatly is that, when I foreshadowed this bill, on 18 September 2003, *The Advertiser*, in a piece by Leanne Craig, reported:

> Social Justice Minister Stephanie Key said a heads of churches working group was developing a response to the Layton report including mandatory reporting by the clergy. The government intended to introduce its own laws in several months.

The article further reported that the then minister did not have a 'personal view' on my bill, but was annoyed that I did not speak to her about it before its introduction. Just in case there is any misapprehension—newsflash!—I am not a member of the caucus of the Labor Party, or the Liberal Party room, or any political party, and I thought that was quite apparent. Given the work that I had done previously—

Members interjecting:

The Hon. NICK XENOPHON: There is no mandatory reporting requirement on me to report to either political party about any bills I am introducing. It was prompted by the work that I did with the Reverend Dr Don Owers, who came to me in April of that year about his serious concerns about the way the Anglican Church, his church, was dealing with allegations of child sex abuse. He is a man who I have enormous respect for and it has been an absolute privilege to have known and worked with him, and that is why I have had an interest in this particular area.

On 2 June 2004, the police minister and Deputy Premier, the Hon. Kevin Foley, in a ministerial statement following the report of the inquiry into the handling of sex abuse claims within the Anglican Church, stated:

> I can announce that the government will now strengthen our state's laws regarding the mandatory reporting of suspected sexual and other abuse. This morning I met with the Commissioner of Police who has recommended that the existing reporting requirements under the Children's Protection Act be extended. The government agrees with this position.

The Deputy Premier, the police minister, went on to say:

> I can inform the house that the government will urgently introduce legislation extending mandatory reporting requirements to staff and volunteers of church and other religious organisations.

It was a matter of urgency back in June 2004. The second reading of this matter was debated on 21 July 2004. On that occasion, the Hon. Carmel Zollo—I am grateful for her contribution and I understand that she put the government's position on this, and this is in no way a personal criticism of her—stated:

> The previous minister for social justice, the Hon. Stephanie Key, gave a general undertaking to consult with the churches and religious organisations regarding this private member's bill. This consultation was considered necessary because there are over 180 religious organisations in the state. They need to be aware of the proposed amendment to mandated notifier provisions and consider the

implications of the bill for their respective organisation. To date the views mostly—though not exclusively—of the two mainstream Christian churches, have been on the public record, one of which has sacred communication, whereas the other does not. As a consequence, there are two opposing views about whether or not the confessional should be included.

The Hon. Carmel Zollo's contribution, and a very considered contribution it was, goes on to say that there needs to be a wider debate about this, and we were led to believe, on the basis of the government's position as expressed by the Hon. Carmel Zollo—and I appreciate that her position was to set out the government's position through the then minister—and the clear understanding was that the consultation was already in process, and this was on 21 July 2004, but we were told about consultation back in a media report in September 2003. Tonight, to be told that there does not appear to be any result of consultation—and I will stand corrected and if there is information I think it is important that we know about it—that there appears to be no movement on something that the government says is such an important issue, is just beyond belief.

That concerns me deeply, and again I emphasise that the Hon. Carmel Zollo, in good faith, was setting out the government's position back then, and it seems to me that the consultation that we were led to believe was already under way has not, in fact, taken place. If that is not the case, I will happily stand corrected, but that really concerns me, that what we were given to understand has not been the case. I note that the Hon. Carmel Zollo, in her contribution, and the police minister, the Hon. Kevin Foley, indicated on 2 June 2004 that, following recommendations and discussions with the Police Commissioner, there ought to be an increase in the penalty of $2 500 to $10 000, and that is why I have tabled an amendment this evening to deal with that. If this bill gets through its stages, at least it will be consistent and I cannot be accused of not putting the position, if you like, of the Police Commissioner that there ought to be a more significant penalty. However, I cannot understand why there has not been earlier action. At least this chamber can deal with this matter. It can deal with the recommendation of the Layton report, so it can be dealt with, because I think it is such a key issue that mandatory reporting is very important.

In relation to the issue of the confessional, I make this position clear. I understand the numbers are not here this evening for that. I understand the position of various members who I have canvassed over a considerable period of time and who do not support my position that there be no exemption for the confessional. I have referred previously to a very tragic and sickening case of a priest in Queensland who admitted to some 1 500 cases of instances of child abuse over 20 years, all the while attending the confessional. I can indicate to the committee that earlier this evening I spoke to Emeritus Professor Freda Briggs, whom I have enormous regard for, who I think is acknowledged as a national authority, and indeed an international authority, on the whole issue of child abuse. Her concern is that there be at least mandatory notification provisions. She sees the issue of the confessional as not a primary one but, at least in most cases, as the Hon. Carmel Zollo has indicated, you can glean information outside the confessional, but as a matter of principle I believe it is important that the confessional should be included.

Notwithstanding my position, which I do not resile from, I will not criticise any member who disagrees with that, because I think everyone in this chamber is deeply concerned about the issue of child abuse and wants to do everything possible to stamp out this scourge in the community, whether it is negligent and, in particular, child sex abuse. So it is a question of emphasis. My view is that this is the preferred position that, on balance, it would be better not to have the confessional as a source of exemption, but I also acknowledge the other argument that the Hon. Robert Lawson and the Hon. Ian Gilfillan, and others, have indicated, that they are concerned that it could be counterproductive. I disagree but I acknowledge that argument. I am not here to criticise anyone who does not agree with my position in relation to the confessional.

Having said that, I understand what the numbers will be with this particular amendment but, if we can deal with this bill tonight, I believe that at the very least it will play a key role in jolting the government into some action. It is not a criticism of the Hon. Carmel Zollo at all, because she has set out in good faith the government's position. However, in February 2003 the importance of mandatory reporting was acknowledged by the Premier. In September 2003, the then social justice minister, the Hon. Stephanie Key, said that they were consulting with the churches, that something was impending in a matter of months.

On 2 June 2004, the police minister, the Hon. Kevin Foley, set out that this legislation would be introduced as a matter of urgency, and that is why I believe it is a case of 'Let's get on with it.' Let us at least move forward with this, so that we can have some mandatory reporting laws in place that will extend to the clergy, church workers, volunteers and recreational services, as recommend by the Layton report. I urge honourable members to at least support this bill, even in its amended form, so that we can get on with it and bring about some reform in this area.

Amendment carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 3.

The Hon. NICK XENOPHON: I move:

After line 9—
Insert:

(A1) Section 11(1)—Leave out:
'Maximum penalty: $2 500'
and insert
'Maximum penalty: $10 000'

This amendment is entirely consistent with the government's position as set out by the police minister (Hon. Kevin Foley) on 2 June 2004. In the *Hansard* of 2 June 2004, the Hon. Kevin Foley stated:

> The police commissioner has also recommended that the penalty for failure to notify be increased. I can therefore inform the house today that the government will be proposing that the penalty be increased from $2 500 to $10 000.

I note that the Hon. Carmel Zollo reflected the government's position in her contribution on this matter. In terms of absolute procedural fairness, if there is any concern by either minister in the chamber tonight I would have thought that this amendment could not reasonably be said to be taking the government by surprise because it simply seeks to accommodate the government's position following advice from the Police Commissioner.

I am anxious for this bill to be dealt with tonight and to go to the other place. It is quite straightforward. I have a copy of the *Hansard* of 2 July 2004 in which the Hon. Mr Foley sets out the government's position based on the recommendations of the Commissioner of Police. I urge members to

support the amendment. I would like to make absolutely clear that, if this is a major sticking point for the government this evening, I would rather the bill pass tonight and go to the other place so that at least we have dealt with it.

The Hon. CARMEL ZOLLO: I thank the Hon. Nick Xenophon. I appreciate what he is saying but, nonetheless, I feel that, as the minister representing the minister in another place, I should at least extend the courtesy to that minister and tell him what amendment we are agreeing to, rather than simply having it put in front of us at the last minute while we are debating it. I agree: we probably would agree with the honourable member but, as a matter of courtesy, I should tell the minister what we are doing. I do not know how the Hon. Robert Lawson feels about it. I believe that, in terms of consultation, following procedures does have some value.

The Hon. R.D. LAWSON: I have some reservations about this proposal being brought forward in this way at the last minute. The Hon. Nick Xenophon did indicate to all members by letter that he wanted to have this matter voted on, I think, on the last Wednesday of sitting. There was no suggestion at that time that he was bringing forward an amendment. I know, for example, that the Hon. Terry Cameron is not here. This is a matter on which there is a conscience vote within my own party. I do not know what attitude all my colleagues may take in relation to it. The Hon. Angus Redford is absent.

Whilst I accept everything the honourable member says about the appropriateness of the penalty, these other members might have a view about the matter. I will wait and see whether the government is prepared to accept the amendment.

The Hon. J.F. STEFANI: I support the amendment. This chamber has been able to deal with motor cars at a minute's notice. I think that this issue has been hanging around now for 12 months or more. The government has made its position clear. The Commissioner of Police has made recommendations in relation to child abuse. We ought to have the courage of our convictions. The quicker measures of this kind are introduced the quicker we will discourage the abuse of children. Certainly, I want to record the fact that I would go as far as saying that I believe that the confessional should not be exempted. I think that the perpetration of child abuse in the context of the confessional does become a very distasteful and abhorrent crime. Priests should be able to report the crime.

The Hon. KATE REYNOLDS: The Democrats will support the amendment without equivocation. We are very pleased that some action has been taken on the recommendation of the Police Commissioner. Again, I highlight that the government was able to look at the recommendation from the Police Commissioner that the penalty for failure to notify be increased. It was able to settle on a figure, namely, increasing the penalty from $2 500 to $10 000. It was able to do that last year on at least two occasions and declare that on the public record. I cannot see any possible reason why the government could now say that it will have a change of heart or that it is not sure. I hope that the Hon. Carmel Zollo can bring us some good news on this.

The Hon. CARMEL ZOLLO: I have placed on record several times that we regret to see this piecemeal legislation before us. I have had a quick consultation with the minister in the other place. We agree with this amendment in that it does make it a better piece of legislation even though it is not the legislation that we will be bringing in.

The Hon. A.L. EVANS: I support the amendment.

Amendment carried; clause as further amended passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

PRIMARY PRODUCE (FOOD SAFETY SCHEMES) (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

A clear aim in developing the *Primary Produce (Food Safety Schemes) Act* was to enable a smooth transition for businesses from currently legislated food safety systems to the new legislative framework. This still remains a government commitment and this Bill is proposed so that minor amendments can be made to the Act to ensure a smooth transition for the dairy industry and any other industry with similar needs in the future.

The dairy industry strongly supports the current method of periodic collection of fees from farmers and processors for the operation of the Dairy Authority, as it is the most cost effective method available and hence minimises costs to industry. The Bill proposes amending the Act so that periodic fee collection can occur.

With development of draft dairy food safety regulations it has become apparent that the administrative complexities of moving from the current licensing system to an accreditation system require different transitional provisions than currently provided in the Act to ensure a smooth transition, particularly regarding fees. To also cover potential transitional issues for other industries it is proposed to amend the Act to enable transitional regulations to be made that can be made specific for the needs of any industry in the future. The changes will also enable more flexible transitional fee arrangements for the meat industry.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Primary Produce (Food Safety Schemes) Act 2004*

3—Amendment of section 17—Periodic fees and returns

The current provision provides only for annual fees and returns. The amendments enable the regulations to specify the period in respect of which fees and returns are to be provided.

4—Amendment of section 46—Regulations

This amend makes it clear that the regulations may deal with savings and transitional matters.

5—Amendment of Schedule 1—Related amendments, repeals and transitional provisions

This amendment repeals the provision that related to fees for accreditation following a temporary accreditation under the clause. Greater flexibility is needed because it is proposed to continue different periodic arrangements for different parts of the industry. Any transitional issues will be handled in the regulations.

The Hon. R.D. LAWSON secured the adjournment of the debate.

ADELAIDE DOLPHIN SANCTUARY BILL

Adjourned debate on second reading.

(Continued from 1 March. Page 1236.)

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank honourable members for their contributions to the debate. I would like to make a few points of clarification and answer some questions that were posed by the Hon. Sandra Kanck. This bill is about the protection of

the Port River and Barker Inlet dolphins. Protection of these dolphins involves more than protecting them from intentional physical harm. The dolphins will not be protected until where they live is safe. They need healthy air, water and food sources to maintain long-term health. That is why the objects of the bill are to protect both the dolphins and their natural habitat.

In focusing only on animal welfare aspects of the bill, the opposition seems to have misunderstood this key point. The bill establishes a structure to achieve the two objects. Rangers have been assigned to the sanctuary, and penalties have been increased to help make sure that the dolphins are physically safe. In addition, the bill offers a means to make sure that the dolphins' habitat is a fit place for them to live. The maintenance of a healthy ecosystem is a complex matter. Traditionally, governments have attempted to achieve this by managing each component of an ecosystem separately. This is what currently happens in the sanctuary area. PIRSA manages the fish, Transport SA manages vessel traffic, the EPA manages water discharges and so on.

The Port River and Barker Inlet are very busy places and are heavily used and modified by human activity. There are thousands of human interactions with this environment that state government agencies are responsible for regulating on a daily basis. The government agencies implement their programs independently of each other and, in doing so, they have the capacity to acknowledge the fact that all components of this complex environment are dependent on each other. Until now, we have not had a means of understanding or addressing the implications of this interdependence. The Adelaide Dolphin Sanctuary Bill provides a means of looking at all government regulated activities influencing the environment of this area and the ability to manage the integrity of the complete ecosystem. Being at the top of the food chain, the dolphins provide us with a clear reference point to check the health of this entire ecosystem.

The amendments to the 11 acts aim to integrate the actions of these acts. The ministers responsible for these other acts will be required to seek to further the objects and objectives of the sanctuary in a way relevant to each act. For example, this means that, when making decisions for activities within or with direct or significant impact on the sanctuary, the ministers responsible for the aquaculture, development, fisheries, harbours and navigation, mining and petroleum acts must now take into account and seek to further the objects and objectives of the sanctuary. These ministers now have those responsibilities under their own legislation and will be held accountable to meet these responsibilities. It is neither necessary nor appropriate for the minister for the sanctuary to have directional powers over another minister's responsibilities. This not only goes against the fundamental principles of our governing system but it is also redundant, as the responsibilities for these objects and objectives will now be contained in 12 acts and not just one.

The bill has been criticised for not creating any new regulatory requirements. The intention is to regulate the sanctuary using existing mechanisms under relevant legislation. However, this does not mean that everything will necessarily remain the same. During the management planning process, the government will look at the full range of regulated activities in the area to ensure that they comply with the objects and objectives of the sanctuary. If they do not, changes in how regulations are enacted will be recommended by the plan.

The Hon. Sandra Kanck asked a number of questions, and I am happy to supply answers to them. A question was raised about moneys going into the fund established by clause 22. I can advise that departmental officers have been approached by businesses interested in working with the government in mutually beneficial partnerships. These policies are still being explored. This measure provides for current and future possibilities. The government is funding the sanctuary through normal budget processes. Clause 25(3) is required to give the minister the authority to administer the full range of responsibilities of this act. A similar provision is also included in the River Murray Act 2003. It is intended to proceed—

The Hon. Sandra Kanck: It is similar but not the same.

The Hon. CARMEL ZOLLO: A similar provision, yes. It is intended to proceed with proclamation of the bill as soon as possible. The government has already appointed three officers with respect to this new initiative. There is one project officer to support the progress of this legislation and the management plan and two rangers to work in the sanctuary. The rangers are already undertaking patrols and working with the community to improve the environment of this area. They are in the process of gaining cross-authorisation under a range of acts to provide extra resources to enforce the most relevant operational acts in the sanctuary.

The honourable member raised the question of including civil enforcement provisions. As previously stated, it is intended to regulate sanctuary activities through existing legislation. Other acts, such as the Environment Protection Act 1993 and the Development Act 1993, include such provisions and these can be utilised on matters relevant to the sanctuary.

Finally, the honourable member questioned the amendments to the Native Vegetation Act 1991. The Native Vegetation Council has been established to provide management of native vegetation independent of government. It is not appropriate for this legislation to subvert that intent. In addition, there are many criteria to be considered by the council in addressing a clearance application contained within the act and also described in schedule 1. The bill amends schedule 1 to include clearance that would significantly harm the Adelaide Dolphin Sanctuary. It seems highly unlikely that any proposal to clear mangroves in this area could overcome this range of considerations. Further, mangroves specifically are also protected under section 48G of the Fisheries Act.

Members in this place and in the other place are in agreement that the Adelaide Dolphin Sanctuary can provide a powerful educational tool to teach students and the wider community about dolphins and the environment required to support them. Certainly, education will be a major focus of the operations of the sanctuary. In all the activities we undertake to protect the dolphins and their habitat we must recognise that not only is the area home to the dolphins but it is also home to billions of dollars of development, including power stations, waste treatment plants, major imports and exports and other significant industries. It is also important historically, culturally and for recreational purposes. To sustain the dolphins and their environment into the future may require changes to a number of these activities. Experiencing the dolphins as a part of everyday life in the port is a privilege we can enjoy today. It is the government's intention to ensure that we can extend this same privilege to future generations.

Bill read a second time.

In committee.

Clauses 1 to 55 and schedule 1 passed.

Schedule 2.

The Hon. SANDRA KANCK: I move:

Clause 52, page 46, line 31—
After 'vegetation' insert:
, other than mangroves,

I remember the great environmental campaigns such as the ones to save the Franklin River during the 1983 federal election campaign and the forests during the last federal election campaign when forests were a big issue. Until I got to know a little bit more about it in the 1980s, I thought that South Australia did not have any forests. But, once I did find out, I was always very proud to say to interstate people when they would say that South Australia does not have any forests, 'Yes, we have. Adelaide has a forest, and it is the mangrove forest in the Port Adelaide estuary.' Anyone who has gone into that area in a boat will know that it is a forest. Admittedly, it is not tall but it is a forest. It is the southernmost stand of grey mangroves in the world, so it is highly significant. I know that most of it is part of an aquatic reserve. I personally consider, from the point of view of a biological resource, that it ought to in fact be a national park, but I doubt that we would be able to get that past government.

Nevertheless, what I am proposing to do—and I guess amendment No. 1 is effectively a test clause—is to move to have any potential clearance of mangroves treated differently to any other class of vegetation that might be proposed for clearance. The minister said a short time ago in her summing up speech that this bill is about the interdependence of the dolphins on the environment, and that is exactly what this amendment will consolidate. Dolphins eat fish and, if we want fish, we need a place where (a) they can breed and (b) the fingerlings can hatch and grow in a reasonably protected way, and that is exactly the role of mangroves. So, if we are going to talk interdependency, the mangroves are absolutely essential for the survival of the dolphins.

This particular amendment, my first amendment, specifically mentions that in regard to any applications for clearance the mangroves will be treated differently to other classes of vegetation; and, should this amendment pass, I will go on to elaborate how that is different. But, basically, if members are trying to work out whether or not they will support what I am doing with this first amendment, it will give the ministers much more power to intervene.

The Hon. J.M.A. LENSINK: I have consulted with my colleague the shadow minister for the environment (Hon. Iain Evans) and the opposition supports this amendment.

The Hon. CARMEL ZOLLO: I indicate to the Hon. Sandra Kanck that we support her amendment which, as I understand her intent, will provide greater support for the sanctuary.

Amendment carried.

The Hon. J.F. STEFANI: Will the minister advise the chamber who owns the land where the mangroves exist at present?

The Hon. CARMEL ZOLLO: We understand it to be Crown land. I will need to verify that. I apologise; yes, that is the case.

The Hon. SANDRA KANCK: I move:

Clause 52, page 46, after line 36—
Insert:
(9c) If an application for the council's consent relates to mangroves within the Adelaide Dolphin Sanctuary, the council must, before giving its consent—
(a) consult with the minister for the Adelaide Dolphin Sanctuary; and
(b) comply with the minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then it be subject to conditions specified by the minister).

I will not go into great detail on it, except to say that, as currently exists in the bill, the Native Vegetation Council would have to consult with and have regard to the views of the minister, and this requires it to comply with the minister's directions in regard to the status of these mangroves.

The Hon. CARMEL ZOLLO: We will support the amendment but in an amended form. I move:

After the word 'mangroves' insert—
(avicennia marina)

Amendment to amendment carried; amendment as amended carried; schedule as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NEW ELECTRICITY LAW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 1468.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I understand that all those members who wished to contribute to the bill have done so. I thank those members for their comments on the bill, and I will seek to answer the questions that were raised during the second reading debate. The Hon. Sandra Kanck asked a number of questions, the first of which related to the issue of what are statutory rules. Statutory rules are a form of delegated legislation made pursuant to a statute enacted by parliament. They are made with the authority of the minister and tabled in the parliament, but they are not debated by the house.

The Hon. Sandra Kanck: It is like regulations, but not regulations.

The Hon. P. HOLLOWAY: Statutory rules are a form of deleted legislation, as are regulations, by-laws, ordinances and orders in council; and they have the force of the empowering statute. The intention of making the national electricity code into statutory rules made under the national electricity law was to ensure that these rules have the force of law and apply according to their terms, and to avoid the duplication involved in the current national electricity code changed process with NECA and the ACCC, which has proven to be costly and takes a long time to complete.

In regard to the issue of NECA being abolished, it is correct that the Australian Energy Regulator (AER) will take up the monitoring and enforcement roles of that organisation. Not all functions will reside in Adelaide, but the AER's electricity surveillance and monitoring functions will be situated here. The AER will have its headquarters in Melbourne, so it is expected that the other functions of the AER, including its enforcement functions, will be undertaken in that city.

The honourable member also raised the issue of efficiency and how to measure it. This is a vexed issue, and in this case the efficiency referred to relates to economic matters—and the aspect of environmental concern is not part of the current legislation. The AEMC and the AER are tasked with having to decide how they will measure efficiency. All changes to the national electricity rules will have to be assessed by

AEMC as contributing or likely to contribute to the market objective. Similarly, the AER will be required to exercise its economic regulatory functions in a manner that also contributes, or is likely to contribute, to the achievement of the market objective. The market objective is an economic concept and should be interpreted as such.

The national electricity market objective will be used by the AEMC and the AER in carrying out certain functions, and in the event that these relate to a fuel source then the objective will be relevant. Members would recall that last year during the debate on the AEMC establishment bill the minister's representatives committed to raise the issue of environmental effects with the other jurisdictions. However, the whole basis of cooperative legislation is that it is agreed to by all the parties. Following on from the commitments made in the chamber, the amendments were raised in discussion with commonwealth officials who were not prepared to accept them.

Members of the public and peak environmental groups also raised the issue of placing environmental goals into the national electricity law at consultation sessions conducted in August 2004. They suffered the same fate. The position reached in this bill is a compromise to accommodate the views of all jurisdictions.

The Hon. Sandra Kanck: So, none of them were interested in environmental objectives?

The Hon. P. HOLLOWAY: Let us deal with that during the committee stage. The position reached in this bill is a compromise to accommodate the views of all jurisdictions. It is worth noting that the MCE report to COAG on reform of energy markets provides for greenhouse to be dealt with in consultation with a COAG higher level group on greenhouse, rather than explicitly as part of these national electricity market reforms. Secondly, it does not prevent the states from dealing with greenhouse directly through other policy instruments of legislation, rather than through an energy act.

The NEM was deliberately established as an energy only market with open access and no discrimination between fuel sources, which provides opportunities for all sources of generation, including green sources of energy such as wind farms, to enter the market. The dispatch process has a clear objective to provide secure, optimised dispatch based upon the voluntary offer prices submitted by participants. Broader environmental and social issues were to be directly addressed through specific legislation. For example, the commonwealth government's MRET has achieved increased renewable energy production and is indirectly impacting on the choices being made in the NEM without having to change the NEL. An emissions trading regime would have a similar impact with regard to greenhouse gas abatement. This sort of approach also applies with regard to other policy objectives such as occupational health and safety and pollution controls that are not directly addressed as part of the NEL.

I now turn to the issue of the use of the term 'consumer' instead of 'end user'. Clause 7 of the National Electricity Bill provides that the National Electricity Market objective is to promote efficient investment in and efficient use of electricity services for the long-term interests of consumers of electricity. This market objective was prepared with the assistance of an expert panel and is intended to be broad. In our view, the phrase 'consumers of electricity' will ensure that all users of electricity will be captured, and this is what is intended. There will be occasions when renewable generators such as hydro power producers draw power to ensure that the pump storage systems are recharged. This use of power would be captured by the proposed definition. In relation to the reliability panel, and the appointment of representatives to that panel, I can advise the chamber that the NEL imposes an obligation on the AEMC to establish a reliability panel, but the details of appointment and removal are contained in the National Electricity Rules.

The latest exposure draft of the National Electricity Rules allows the AEMC to appoint at least five but no more than eight people to the reliability panel and representation to include persons representing generators, market customers, transmission and distribution network operators, retailers and end use customers for electricity. This reflects the policy position to make explicit the current representative arrangements within the reliability panel.

The number of generators, transmission and distribution network operators and market customers and retailers participating in the NEM are known due to the registration requirements for operating in the market. As such, there is no procedural difficulty in conducting a vote to appoint or remove such a representative; on the other hand, the number of end use customers of electricity—that is, industrial users, small businesses and residential users—is unknown for the purposes of determining a representative for the reliability panel. As a result, provision has been made for the AEMC to consult with bodies representing end users and other persons as the AEMC considers appropriate before appointing or removing an end user representative.

Turning to the legal questions that have been posed by the honourable member, I can advise that the Council of Australian Governments (COAG) was established in May 1992 as a cooperative forum whose role is to develop and monitor the implementation of policy reforms which are of national significance and which require cooperative action by Australian governments. It is the peak intergovernmental forum in Australia comprising the Prime Minister, state premiers, territory chief ministers and the president of the Australian Local Government Association. At its meeting on 8 June 2001, COAG established the MCE, endorsed the need for a national energy policy and agreed to commission an independent review of the strategic direction for stationary energy market reform in Australia. The final report of the review, the Parer review, was published on 20 December 2002 with the MCE issuing a comprehensive report to COAG, 'Reform of Energy Markets', in response to the Parer review on 11 December 2003.

Subsequently, COAG agreed to give effect to the recommendations arising from the MCE report to COAG through the execution of the Australian Energy Market Agreement on 30 June 2004. The current reforms, as originated in the recommendations of the Parer review, are being implemented by the MCE consistent with the mandate provided by COAG.

In terms of the claim that there is a discrepancy between the platforms that the various governments have been elected on and the actions undertaken as part of COAG, my advisers have yet to discern on what basis any claim of unconstitutional behaviour could be based. It has been suggested that this is a political claim that has no basis in law. As such, it should be disregarded in terms of a legal argument. Honourable members have also been provided with a copy of an advice from the Australian Government Solicitor, dated 24 March 2005, which addressed the alleged constitutional issues relating to the National Electricity Law raised by the Total Environment Centre.

That advice clearly states that the R v Hughes issues have been dealt with in amendments to the Trade Practices Act, the

Australian Energy Market Act 2004 and in the NEL which ensure that the AER can perform functions and exercise powers under the NEL applying as a state law. Secondly, the NEL does not involve any impermissible delegation of commonwealth legislative power to the South Australian parliament in accordance with longstanding and recent High Court authorities and a number of legislative precedents.

The honourable member has also made the claim that 'the removal of merits review effectively makes those responsible for the operation of the NEM unaccountable'. I can advise the chamber that currently there is no merits review of ACCC decisions. The limited role of merits review in the current system is proposed to be removed. Rather, the NEL allows for judicial review of decisions and associated conduct of the Australian Energy Market Commission and the NEMMCO under the law and the rules. The Australian Energy Regulator is subject to judicial review pursuant to the Administrative Decisions Act 1997 (Commonwealth). That is, any person whose interests are adversely affected may apply to a court for judicial review of a decision.

While it is true that the NEL does not provide for merits review of a decision, in the case of the Australian Energy Market Commission, the process that is undertaken to change the NEL is subject to extensive public consultation which should raise any relevant issues. Further, those decisions of the Australian Competition and Consumer Commission to be taken over by the Australian Energy Regulator will not be subject to merits review.

On the final point raised by the Hon. Sandra Kanck regarding Victoria passing similar legislation, the National Electricity Law (the NEL) is picked up and applied by each of the National Electricity Market jurisdictions—that is, New South Wales, Victoria, Queensland, the Australian Capital Territory and, now, the Commonwealth by way of applications acts in each of those jurisdictions. Each jurisdiction will pick up the new NEL by way of its existing application act, say, for the Commonwealth, which has recently passed its own application act, but Victoria has to make an amendment to its existing application act as a result of its constitution. Therefore, the act in the Victorian parliament at the moment is waiting for the NEL to pass through the South Australian parliament prior to its completing its passage in the Victorian parliament. This is simply a procedural issue, as the NEL has to pass our parliament before the Victorian application act can apply it as law in Victoria.

I turn now to the issues raised by the Hon. Rob Lucas. In regard to when South Australians will see significant reductions in electricity costs, the answer is quite simple: in July 2005, when the Liberal Party's five-year sweetheart deal with ETSA Utilities is reviewed and an average residential consumer will see a fall in distribution costs for around $60 per year. The chairperson of the Essential Services Commission of South Australia (ESCOSA) has made clear that the prices experienced in recent years are a direct result of the higher network charges that were locked in by the pricing arrangements established to maximise the privatisation proceeds by the former Liberal government. When will South Australians see significant new investment in the electricity industry in South Australia? They have seen it already. In the past three years, since the election of the Labor government, more than $400 million has already been invested or committed to the development of new wind farms and power plants across the state. During the Liberals' time in office, not one wind farm was approved, let alone commenced construction.

When will South Australia see improved reliability of electricity transmission and distribution services? During the next five years, more than $750 million will be spent on improving the distribution network and meeting the demand created by a growing South Australian economy, a substantial increase on that allowed by the previous government. In saying this, it is important to remember that the South Australian energy assets were privatised by the former government and, as such, the government now has limited ability to influence asset owners. That said, this government has acted to reclaim a significant role in protecting the interests of the public.

Of particular importance has been the role that South Australia has played in the Energy Market Reform program, where the South Australian government has been actively working with other jurisdictions developing and implementing the package of reforms agreed by the MCE in December 2003, which included an ambitious work program to address and identify deficiencies in energy markets at a national level. This work program covers all the areas of the energy market that impact on energy consumers from retail to distribution to transmission.

Ministers have indicated a desire to implement the new institutional and regulatory framework, as it will improve accountability, streamline decision making as expeditiously as possible and remove unnecessary duplication of regulatory processes, thereby providing an improved investment framework for the energy industry. Once fully implemented, these reforms should significantly enhance the existing national transmission planning and overall regulatory processes to ensure that commercial investments proceed for the benefit of customers.

In regard to the current state government policy in relation to control over retail pricing in South Australia, I am advised by the Minister for Energy that no decision has been made to transfer retail pricing to the Australian Energy Regulator. Prior to such a decision being made, the government would have to be satisfied that national distribution and retail regulation will address the specific needs of South Australia. As noted by the Hon. R. Lucas, one such criterion the government would employ in making the decision is whether there is a local office of the Australian Energy Regulator.

In regards to the issue of when further legislation will be introduced for consideration by the parliament, I advise that the Energy Market Reform work program of the Ministerial Council on Energy has foreshadowed further legislative changes to the National Gas Pipeline Access Law and distribution and retail regulation. Relevant officers from the jurisdictions are currently in the early stages of preparing amendments to the National Gas Pipeline Access Law. While some jurisdictions had hoped that this work would be completed by the end of 2005, this time frame is tight and, from the process taken to get this bill to the stage it is now, it is a valiant target. The Minister for Energy is not intending to introduce a bill to amend the Gas Pipeline Access Law until there has been consultation with interested parties.

In relation to distribution and retail regulation, relevant officers from the jurisdictions are currently preparing an options paper that is schedule for release in mid 2005. A specific date for the introduction of the bill to give effect to national distribution and retail regulation has not been agreed. The Australian Energy Market Agreement foreshadows that the AEMC and AER should have a role in relation to distribution retail by the end of 2006.

The Australian Energy Market Agreement does not compel South Australia to transfer functions relating to retail pricing to the AER. It is anticipated that the legislation will allow jurisdictions to transfer retail pricing to the AER when they are satisfied that the national distribution retail regulation meets the requirements of the jurisdiction. If the government is satisfied that it is appropriate to transfer price regulation, it will be necessary to introduce a bill to amend the electricity and gas acts. In short, as the government has not concluded that retail pricing ought to be transferred to the AER, there is no specified date for the introduction of legislation to effect it.

In response to the question raised by the Hon. Rob Lucas on what agreements have been reached with the national authorities and other ministers in relation to the specific powers any South Australian branch of the Australian Energy Regulator has, I am advised that there are two elements to consider in relation to AER office located in Adelaide. That is, that there is an existing office established with the former National Electricity Code Administrator (NECA) staff for the purposes of the national electricity market monitoring and enforcement and the potential establishment of a branch office structure for the AER for the purposes of distribution and retail regulation incorporating offices in state capitals.

The national electricity market monitoring and enforcement functions of the National Electricity Code Administrator (NECA), which is located in Adelaide, will transfer to the Australian Energy Regulation (AER), but will remain in Adelaide in a branch office of the AER. The AER's head office is located in Melbourne. NECA's market monitoring and enforcement functions utilise a large portion of NECA's resources and are aimed at actively enforcing the code and in providing an understanding of how various aspects of the market are operating to support market development. I understand that offers of employment in the Adelaide office of the AER were made to six NECA staff, five of whom took up the offer and have commenced performing their functions from the AER's Adelaide office.

In relation to a branch office at the AER undertaking the pricing and distribution roles, I am advised that in a letter dated March 2004 the minister wrote to the chair of the Ministerial Council on Energy, the Hon. Ian Macfarlane MP, advising him that the AER may need to have branch offices in all capitals in order to effectively carry out its proposed distribution and retail functions from 2006 onwards. When this bill was debated in another place, the Minister for Energy stated that these powers would not be handed to the commonwealth until assurance was provided that they would continue to be regulated from a local perspective. Particularly in the area of distribution, it is a nonsense to suggest that regulation of a system can be carried out by remote control from the eastern states.

In regards to the question of what functions the proposed ministerial council will have which the existing ministerial council does not have, the advice I have received is that the Parer report noted that the role of ministerial decision making was uncertain. This bill makes changes to clarify their role through enshrining it into legislation. For example, under the current National Electricity Code, any person is permitted to propose a code change to NECA, thereby permitting a minister or a group of ministers to make such a proposal. Under section 91(1) of the National Electricity Law, the bill makes it clear that the Ministerial Council on Energy has this right.

Currently, NECA conducts reviews arising from its requirements under the code, or as a result of the ACCC requesting such a review as a condition of authorisation. Under section 1 of the National Electricity Law, the MCE is provided with explicit powers to direct the AEMC to conduct a review, with the AEMC required to publish such a direction.

Under the current arrangements, the ministers do not have an explicit instrument to ensure their views are taken up in NECA's decisions to make changes to the National Electricity Code. The National Electricity Law (section 33) ensures that the AEMC must have regard to any MCE statement of policy principles. This again provides an explicit arrangement for ministers to provide high level policy guidance to the AEMC, and any such statement must be published by the AEMC in the *South Australian Government Gazette* and on its web site.

In relation to the events of 14 March, I am advised that these events arise from a range of causes, including equipment failure, inadequate technical standards and/or market participants failing to comply with the appropriate technical standards or rules. The 14 March event is being investigated by NEMMCO regarding the causes and system security issues; by NECA regarding potential code beaches and enforcement action; and by ESIPC, upon referral of the South Australian Minister for Energy, as an independent inquiry.

The reforms that are proposed in this legislation have been based on changing the governance arrangements to separate the enforcement function from the rule-making function, with the AER and the AEMC to respectively perform these functions. The intent is to improve the enforcement regime, with a more focused and vigorous regulation (the AER), enforcing the rules, including appropriate standards. No changes have been made to NEMMCO's core functions or its role.

It will be the AER's task to enforce the new NEL and the rules, and in this aspect it will not be subject to other tasks, such as approving rule changes. This should enable it to improve the level of enforcement of the rules within the NEM, and in this respect markedly reduce the chance of recurrence of such events. In terms of the history of NECA, it does not appear to have displayed the ability of a tough enforcer of the rules.

One aspect that was raised by the honourable member in his speech was, of course, interconnectors. Unfortunately for South Australian consumers, in spite of the efforts of this government, due to the serious deficiencies in the regulation of transmission in the NEM and the flawed Murraylink project supported by the former government, the SNI project is not going to proceed in the short to medium term. To address the serious deficiencies in the regulation of transmission in the NEM highlighted by the SNI decisions, the MCE announced a package of transmission reforms in December 2003.

As part of these reforms, the MCE agreed to a series of key reform initiatives to guide the future development of transmission policy in the NEM. The new NEL delivers a key component of these transmission reforms by improving the governance and accountability for transmission regulation in the NEM. The NEL defines the role of the Australian Energy Regulator with respect to its functions of economic regulation of transmission and also obliges the Australian Energy Market Commission (AEMC) to develop rules with respect to the process and methodology that the AER must follow in undertaking its economic regulatory functions.

Importantly, the transmission reforms will significantly enhance the existing national transmission planning process, through the development of two key initiatives—the Annual National Transmission Statement and the Last Resort Planning Power—so that potential interconnection options are identified and assessed under an improved regulatory test that includes the full economic benefits of increased competition. When fully implemented, these reforms should significantly enhance the existing national transmission planning and regulatory processes to ensure that commercial investments in transmission proceed for the benefit of customers.

On the issue of bodies being involved in regulating the industry, members should be aware that the role currently played by the ACCC will be transferred to the AER. Along with the abolition of NECA, the bill also removes the functions and powers of the National Electricity Tribunal (NET), which changes the legislative and regulatory regime in relation to enforcement. As a result, AER will be empowered to enforce the NEL regulations and rules through application to either the Federal Court or Supreme Court of the participating jurisdiction.

It is always of interest to track the level of reserves available in the system, and members should be aware that on 23 February 2005 Basslink announced that six of the eight transformers required for its project had been damaged in the Great Australian Bight en route from Germany, resulting in a delay in the project's commissioning. Consequently, in its most recent Medium Term Projected Assessment of System Adequacy (MTPASA), the National Electricity Market Management Company (NEMMCO) has identified a small reserve shortfall in the South Australia-Victoria region for the 2005-06 summer.

The Electricity Supply Industry Planning Council (ESIPC) and NEMMCO will continue to monitor developments and assess the reserve situation closer to summer following the revision of the demand and supply forecast as part of the annual statement of opportunities, the SOO process. Should the potential for a reserve shortfall persist, NEMMCO will implement reserve trader, as it did for the past 2004-05 summer, whereby it undertakes a tender process for the provision of reserve capacity to accommodate the shortfall.

It is relevant to point out that Murraylink, another white elephant supported by the previous government, does not provide any additional power for the South Australian-Victorian market. In contrast, the SNI proposal would have delivered additional power from New South Wales into South Australia and alleviated some of the concern that the honourable member now seems to profess.

In light of the questions from the Hon. Nick Xenophon regarding the consultation process, I can advise that all of these reforms have been the result of a public consultation process with industry participants and other stakeholders that began with consultation as part of the Parer review during 2002. The Ministerial Council on Energy provided a substantial response to the Parer review and other matters in its report Reform of Energy Markets on 11 December 2003.

Further consultation has been undertaken on the implementation of the recommendations contained in the Reform of Energy Markets report, such as the regulatory arrangements that will provide for cooperation between the Australian Energy Regulator, the Australian Energy Market Commission and the Australian Competition and Consumer Commission. Consultation has also occurred on the reforms proposed to date to the legislative and regulatory framework of the Australian Energy Market, the streamline rule change process and the proposal to convert the provisions of the current national electricity code into rules made under the new National Electricity Law.

Consultation on the bill included an opportunity to provide initial written submissions on an exposure draft of the bill followed by final written submissions, and interested parties have also been given an opportunity to provide written submissions on an exposure draft of the National Electricity Rules. In addition, those who choose to make submissions have been given the opportunity to make an in-person verbal presentation to senior officials administering the reform program on the exposure drafts of both the bill and the rules. In total, 32 written submissions of the draft version of this bill were received, and 15 in-person verbal presentations were made.

In relation to the extent to which the ACCC's current role with respect to electricity industries would be modified by the passage of this legislation, it is important to note that the reforms embodied in the National Electricity Law simply transfer, at this stage, the role of Electricity Transmission Price Regulator from the ACCC, one of the functions undertaken at present by the ACCC, to the AER.

At no stage has it ever been contemplated that any body other than the ACCC would undertake the role of competition regulation under the Trade Practices Act. That said, it follows that the provisions of section 46 of the Trade Practices Act will continue to apply to the NEM and industry participants. In response to the question on the funding arrangements for the advocacy panel, I can advise that the Ministerial Council on Energy's User Participation Working Group is currently assessing existing advocacy arrangements and developing options for a future national model that will encompass both electricity and gas.

This working group has released a consumer advocacy consultation paper seeking comment on the models proposed in the KPMG Review of Consumer Advocacy Requirements Report. Submissions to this consultation are due by 29 April 2005. In regard to the general issue of standing that has been raised by the honourable member, I am advised that the NEL bill provides for judicial review of decisions of the AMC and NEMMCO for any person who is aggrieved by a decision of those bodies, that is, for persons whose interests are adversely affected by a decision of these bodies.

The decision as to whether a person is aggrieved must be determined by a court by reference to the subject, scope and purpose of the legislation in question. It is our view that a central part of the national electricity market is 'the long-term interests of consumers'. Those consumer groups that wish to make application for judicial review of a decision of the AEMC or NEMMCO should be granted standing, but this is a matter for the court to determine. The decisions of the AER are subject to judicial review pursuant to the commonwealth Administration Decisions (Judicial Review) Act (1977).

The above is the standard procedure in relation to standing for judicial review of administrative decisions. The only time that this procedure has been varied is in section 487(2)(b) of the commonwealth Environment Protection and Biodiversity Conservation Act 1989 relating to persons with a longstanding involvement in conservation matters and conservation groups, but this was an exceptional situation and such provisions are not appropriate in this context. In relation to the request for general transparency and decision making as it relates to rules made by the AMC, I advise that part 7 of the NEL bill sets out the rule-making process for the new national electricity rules.

Clause 96 deals with non-controversial and urgent rules and clearly provides that the AMC must seek views as to whether its assessment of a rule change as non-controversial or urgent is supported by industry participants. If it is not and the reasons given for that view are accepted as having substance by the AEMC, then the AEMC must pursue the full rule change process for that rule change application as set out in part 7 of the NEL bill. Further, in making a draft rule and final rule determination, the AEMC must give reasons as to why it has decided whether or not to make the rule change and its reasons as to why the national market objective is satisfied, its reasons as to why it satisfied an MEC statement of policy principles and, if it is a jurisdictional derogation, reasons as to why it satisfies requirements in clause 89 of the NEL bill.

In our view this is clearly a very transparent and accountable process for the making of rules. From the questions asked, I understand that the EUAA has expressed concern that, in its current form, the bill does not make it clear that the market objective is not focused upon investment alone but rather the effective operation of the NEM overall. A number of stakeholders made the comment that it was not clearly expressed that the market objectives should be interpreted by a court utilising an economic interpretation. Views varied as to whether clarification was best expressed in the NEL or the second reading explanation to the NEL.

Given the decision of the High Court in CIC Insurance Limited v Bankstown Football Club Limited (1997) 187 CLR 384, which clearly held that extraneous material (including a second reading explanation) can be used by a court to interpret the works of a statutory provision, it was decided to include the following statement in the second reading explanation to the NEL:

> The market objective is an economic concept and should be interpreted as such. For example, investment in and use of electricity services will be efficient when services are supplied in the long run as least cost resources, including infrastructure, are used to deliver the greatest possible benefit, and there is innovation and investment in response to changes in consumer needs and productive opportunities.

One of the other changes made in this iteration of the NEL bill in response to concerns raised by industry participants was the requirement that AER, in performing or exercising an AER economic regulatory function or power, must perform or exercise that function or power in a manner that contributes to the achievement of the national electricity market objective.

I also wish to advise members that all submissions, including submissions by the EUAA, were carefully considered by officials during the drafting of the NEL bill. In addition, South Australian officers and ministerial staff members met a number of stakeholders, including the EUAA, immediately prior to the introduction of the NEL bill. The January 2005 submission of the EUAA relates to a previous iteration of the bill, and that is why there are clause numbering differences between the provisions of the draft that the EUAA refers to and the NEL bill that was introduced. A further iteration of the NEL bill was drafted and incorporated a number of the comments and suggestions made by stakeholders as part of the consultation process undertaken in December 2004 and January 2005.

I note that the honourable member also raised a number of issues such as merit reviews and market objectives, and I refer him to the answers that I provided earlier in this speech to the same issues raised by the Hon. Sandra Kanck. In closing, I thank members for the interest that they have shown in such an important issue, and look forward to dealing with any other questions they may have during the committee stage of the bill. I commend this bill to the council.

Bill read a second time.

ACTS INTERPRETATION (GENDER BALANCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1407.)

The Hon. NICK XENOPHON: I indicate my support for the bill, and my contribution will be very brief. I note the contribution of the Hon. David Ridgway, who also supports the bill. I think that the point has been made by a number of speakers that, whilst the bill does not mandate gender balance on boards, at least it does so in relation to the nomination of persons for appointment to statutory boards. It is a step in the right direction, and I think it is more than reasonable. Obviously, I support the overriding principle that people should be appointed on merit, but it is my view that, given that women make up 51 per cent of the population, the fact that we do not have a greater degree of gender balance on statutory boards—and, indeed, on boards generally in the community, particularly in the corporate world—needs to be rectified. This bill acknowledges that the nomination process ought to rectify the issue of gender balance and is quite self-evident in the way in which it deals with the issue.

I have a general question of the minister, which can be dealt with at the committee stage, namely, what protocols will be in place to ensure that not only will the nomination process incorporate gender balance but also that the selection process, as far as is practicable, will go down the path of ensuring that the government's aim, with respect to gender balance, is achieved? It is one thing to have a nomination, but how can we be sure that those nominated are selected on merit and that there is a transparent process that goes some way to achieving the government's goal of 50 per cent representation on boards in the next few years? With those comments, I welcome the bill and support it. I hope that it has a speedy passage through this place.

The Hon. R.K. SNEATH secured the adjournment of the debate.

OATHS (ABOLITION OF PROCLAIMED MANAGERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1427.)

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will support the passage of this bill. The bill will amend the Oaths Act by abolishing the category of proclaimed bank manager presently entitled to take declarations and to attest the execution of legal instruments. Proclaimed managers (formerly called proclaimed bank managers) were introduced in 1913. The grounds for abolishing proclaimed managers, as provided in the government's second reading explanation, are not particularly convincing. First, it is claimed that the new Justices of the Peace Bill will impose new forms of regulation on justices of the peace, and it would 'be inappropriate to permit proclaimed bank managers to

continue to have responsibilities similar to the responsibility of JPs'.

That is rather unconvincing, because proclaimed bank managers have always had different responsibilities from those of justices of the peace. The only function of a proclaimed manager was to take an oath or affidavit. Traditionally, justices of the peace have had other responsibilities and, according to the government's latest bill, it is proposed that justices will have yet further responsibilities. However, those responsibilities have not been greatly exercised in recent times.

Secondly, in introducing the legislation in another place, the Attorney-General said that responses received from banks to the government's proposal made it 'apparent that most banks did not recognise the risk of conflict of interest'. Precious little evidence has been provided for this claim. Of course, if it were true, it would provide grounds for disqualifying bank managers from exercising the role of attesting documents. The extraordinary thing is that the second reading explanation suggests that, if this bill is passed, the individuals who cease to be proclaimed managers could apply to become justices of the peace. That is rather illogical, given the claim of the government that their employers cannot recognise a conflict of interest at the moment. If, as the Attorney is suggesting, bank managers can apply to become justices of the peace, presumably, there would be no issue about their integrity or capacity to identify conflicts of interest.

Thirdly, it is claimed that proclaimed bank managers are not available after hours or to assist persons who are not customers of their bank or institution. One could easily say to that: if these officials are providing a service to some people, why remove from them the capacity to exercise that role? The opposition wrote to the Attorney-General and received a response to some of our inquiries, and I am indebted to the Attorney for providing this information. We asked how many proclaimed managers there are at the moment, and the Attorney wrote the following:

> The database records about 330 proclaimed managers. However, the number who are authorised to take statutory declarations and attest the execution of instruments could be fewer than 330, because some banks and managers fail to inform my office when a person is no longer a manager.

Under the heading 'Supplementary Information' the Attorney went on to say:

> The Justices of the Peace officer in my office receives an email from the police about once a week inquiring about the status of people who have put their signatures to statutory declarations received by the police. The officer reports that about 50 per cent of the names that are checked are not proclaimed managers. During the consultation with banks about the possible amendment to this part of the Oaths Act, some replied that, 'Several of our proclaimed managers are not in charge of a branch.' The act provides that the appointment of a person as a proclaimed manager is terminated by that person ceasing to be a manager. It is clear that this part of the Oaths Act, and the system of authorising bank managers by proclamation, is not understood well by bank officers, is not working well, and needs to be changed.

We asked the question of the Attorney, 'How many financial institutions were consulted?' The response was that the then attorney, Paul Holloway, wrote to nine financial institutions that employ proclaimed bank managers in South Australia, of which only four replied: Adelaide Bank, ANZ Bank, Bank SA and the Commonwealth Bank. We asked the question, 'What is the basis for the statement in the second reading that 'From the few responses received, it was apparent that most banks did not recognise conflict of interest?' The Attorney responded:

> Of the four banks who responded, only the Adelaide Bank recognised that documents should not be signed by their proclaimed managers when a conflict of interest arose. My office receives calls from members of the public that indicate that some proclaimed managers take statutory declarations or attest the execution of documents only for customers of their bank, and that some proclaimed managers appear to think that they are proclaimed under the Oaths Act for the purpose of furthering their employer's business.

One of the questions that the financial institutions were asked was whether there were 'Classes of documents that the bank's proclaimed managers do not, as a matter of policy, take or attest.' One of the major banks replied, as follows:

> Most documents witnessed are for bank purposes but there may be some private documents for staff and customers, but very few for non-customers.

None of the other four responding banks mentioned conflict of interest. We see this provision of the Oaths Act as one that is provided not only for the benefit of banking institutions but also for the benefit of their customers, and also members of the public generally. Given the fact, as is apparent from the correspondence received from the Attorney-General, that the banks themselves seem disinclined to argue for the retention of proclaimed managers, we believe that it is appropriate in all of the circumstances to support the passage of the legislation, notwithstanding, as I said at the outset, that we are not convinced that an overwhelming case for this amendment has been made.

We are aware that another bill, the Justices of the Peace Bill, has been introduced in another place and, on the occasion of the debate on that bill, we will have more to say about the system operating in South Australia by which documents are attested by officials holding commissions from the government, such as the commission of a justice of the peace. We will be supporting the second reading.

The Hon. R.K. SNEATH secured the adjournment of the debate.

ACTS INTERPRETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1434.)

The Hon. R.D. LAWSON: On behalf of the Liberal Party opposition, I indicate that we support the passage of this bill. The bill deals with the following uncontroversial matters. It extends expressions such as audio tape, videotape, book, paper, plan, etc., to include digitally stored data. It provides that a person who is under a legal obligation to produce a computer record must make it available in a form which can be understood. The bill clarifies the status of clauses and schedules, headings, marginal notes, dictionaries, examples, etc. The bill clarifies the Governor's power to fix not only a day but also a time of the day for the commencement of acts or statutory instruments and allows for the variation of commencement proclamations. The bill replaces section 69 of the act by clarifying that the power to make regulations, rules or by-laws includes the power to vary or revoke such regulations, rules or by-laws.

The bill deals with several miscellaneous meanings and definitions. It extends the meaning of 'statutory instrument'; provides for a new section to assist in the interpretation of words and phrases that have meanings related to a defined word or phrase; clarifies the meaning of 'sitting days of parliament'; updates references to registered post and

certified mail; and removes certain unnecessary phrases. All of these matters should be supported.

The bill will amend section 10AA of the Subordinate Legislation Act by providing that regulations come into force at a time specified therein. Presently, section 10AA of the Subordinate Legislation Act provides that regulations come into operation four months after the date on which they were made or from such later date as is specified in the regulations. I have already said in relation to a bill introduced by me today to amend the Subordinate Legislation Act that we believe the provisions of section 10AA should be amended. However, we have no objection to allowing the current proposed amendment in this bill to enable regulations to commence at a particular time.

By amendments moved in another place, the bill as originally proposed by the government has dealt with a further couple of matters which are not controversial. The first relates to recognition of the Australian Standards system by providing the definitions for the standards themselves and also the organisation which publishes those standards. The other amendments are minor and uncontroversial. As I indicated at the outset, the opposition supports the passage of this measure. Given the late hour, I will not mention a number of issues that will be pursued in committee.

The Hon. G.E. GAGO secured the adjournment of the debate.

ADJOURNMENT

At 10.50 p.m. the council adjourned until Thursday 7 April at 2.15 p.m.