LEGISLATIVE COUNCIL

Monday 11 April 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.20 p.m. and read prayers.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to question on notice No. 258 of the last session be distributed and printed in *Hansard*.

GOVERNMENT EMPLOYEES

258. (3rd session) **The Hon. T.G. CAMERON:**

1. For each State Government Department, how many employees took at least one day of stress leave for the period:

(a) 1 July 2002-30 June 2003; and

(b) 1 July 2003-30 April 2004?

2. For each State Government Department, how many days in total were taken as stress leave by employees for the period:

(a) 1 July 2002-30 June 2003; and

(b) 1 July 2003-30 April 2004?

3. For each State Government Minister's Office, how many employees took at least one day of stress leave for the period:

(a) 1 July 2002-30 June 2003; and

(b) 1 July 2003-30 April 2004?

4. For each State Government Minister's Office, how many days in total were taken as stress leave by employees for the period:

(a) 1 July 2002-30 June 2003; and

(b) 1 July 2003-30 April 2004?

The Hon. P. HOLLOWAY: The Premier has provided the following information:

I have been advised that it is not possible to provide the information sought by the Hon Member because there is no specific category of leave for stress-related purposes and departments and Ministers' Offices do not record the specific reasons why employees take sick leave because employees are generally not obliged to specify the nature of their illness.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Upper South East Dryland Salinity and Flood Management Act 2002—Quarterly Report, 1 October 2004-31 December 2004.

EVENTS, MARCH 2006

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement on the events of March 2006 made today by the Premier.

QUESTION TIME

GOVERNMENT, CORPORATE ASSISTANCE

The Hon. R.I. LUCAS (Leader of the Opposition): My question is directed to the Leader of the Government. Given the government's stated position in relation to corporate welfare packages and, also, given the fact that the government made multimillion-dollar assistance package offers to both Jetstar and OzJet, can the minister now explain to the council what the government's policy guidelines are in relation to which businesses will be provided with offers of corporate assistance from the government?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The guidelines that apply to government assistance for business is that any assistance, if it is provided, would have to be to an industry that was clearly strategic to the development of this state. The practical reality is that we would consult the Economic Development Board in relation to those situations where government assistance might be given. Further, the provision of government assistance, broadly speaking, in the view of the government, should be restricted to such matters as infrastructure, environmental concerns and the like. It is certainly the view of the government that, if we are to get the best outcome for this state, and whilst there will always be some exceptions to prove the rule, the criteria to which this government has adhered in those situations to date is that the industry would have to have some strategic importance to this state.

Certainly, any assistance we give should be provided in a manner which will mean the benefits of that assistance remain in this state. In other words, rather than giving money to companies themselves, in those few cases where it is decided that assistance ought to be provided, the money should be paid in such a way that it cannot be effectively appropriated by the company. If the money is going for infrastructure and such other forms of assistance, it should be of benefit generally to the state. Again, they are the broad guidelines under which the government operates in relation to its policy in the industry assistance area.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the minister has just claimed that the criteria involve strategic industries and that the issues will be referred to the Economic Development Board, is the minister now claiming that the Economic Development Board supported the government proposal to provide assistance to Jetstar?

The Hon. P. HOLLOWAY: I will refer that question to the Minister for Economic Development. Certainly, the Economic Development Board made its recommendations several years ago in relation to industry assistance. Broadly, I think its position is similar to that of the government, that is, that industry assistance should be provided only on very rare occasions. I would think that the application of government policy is broadly in harmony with that. However, in relation to the specific matter, I will refer that question to the Premier, who is also the Minister for Economic Development, and bring back a reply.

The Hon. R.I. LUCAS: I have a further supplementary question. Given the minister's claim that these offers would be taken to the Economic Development Board, can the minister assure the council that he followed those guidelines before the government made—and he as minister made—the offer to OzJet?

The Hon. P. HOLLOWAY: I have just answered that question by saying that I will—

The Hon. R.I. Lucas: No; that was Jetstar.

The Hon. P. HOLLOWAY: Well, in relation to those matters, I will get that information from the Minister for Economic Development and bring back a reply.

STATE EMERGENCY SERVICE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the State Emergency Service.

Leave granted.

The Hon. R.D. LAWSON: The South Australian State Emergency Service is a largely volunteer organisation which performs signal services for the South Australian community and which relies heavily on the dedication and commitment of a large number of people in our community. In last year's Auditor-General's Report, the Auditor-General noted that the activities of SES brigades and volunteers includes fundraising and the fact that the funds acquired through those means are used to acquire assets and to fund certain operational requirements of the brigade. The Auditor-General recommended that the results of fundraising activities conducted by State Emergency Services brigades be incorporated in the general ledger of the government controlled Emergency Services Administration Unit and that those fundraising activities be reflected in the financial statements of the Emergency Services Administration Unit. My questions are:

1. Does the minister agree that the results of fundraising activities conducted by the SES should be incorporated in the accounts of the Emergency Services Administration Unit?

2. Will this minister be requiring that such funds be reported through ESAU?

3. Is she aware of this issue at all?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question. As he would probably be aware, the Emergency Services Funding Act 1998 is committed to the Treasurer. In relation to the specific issues he has raised concerning fundraising for the SES, I will take some advice and bring back a response for the honourable member.

GOAT SHOOTING

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the minister representing the Minister for Environment and Conservation a question about goat shooting programs in Bimbowrie National Park.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have been contacted by a constituent who is a pastoralist on a property adjoining Bimbowrie National Park, which as we know was a previous pastoral property purchased at an inordinately high price by this government and converted to a national park. This constituent is concerned about the indiscriminate culling of goats in the national park by a method that leaves the dead carcasses lying around in the park and, therefore, as his letter points out, breeding blowflies. It is necessary for me to quote from his letter. He says in part:

> As wool producers we have spent considerable time and effort on the breeding, flock management and husbandry [of sheep]. Along with fly control measures such as the proper disposal of carrion and continual use of fly traps etc so that the use of chemicals is not needed. Now one of our best prevention procedures, mulesing, is under threat from PETA. The control of flies is paramount as is the ability to stay chemical free.

He further states that the primary industries department's fact sheet on sheep blowflies says:

> Sheep blow flies show different degrees of adoption to breeding on live sheep, however, all prefer to lay on carrion if available.

He continues:

> I tried to voice my concerns to John Hill and Lindsay Best. They wouldn't return my calls. Instead I was passed down the line where my concerns were dismissed out of hand as in their opinion I didn't know what I was talking about and their problem was the eradication of goats.

He says that the National Parks and Wildlife shot 4 000 goats in one shooting period using a helicopter so, as you can imagine, sir, that is a lot of dead goats. He also states:

> Other problems caused as a result of this scale of shooting include: the slow death of literally hundreds of kids that are hidden away; the serious adverse effects that concentrated numbers of predators such as eagles, foxes and cats who are attracted to the carrion will have on the yellowfooted rock wallaby and other native species; the spread of diseases caused by the sheer number of carcasses lying around.

He continues:

> What makes this action even heavier handed is the fact that there is a perfectly sustainable long-term option which could be used in this particular situation. The building of trap yards on all remaining watering points and the hiring of specialist goat musterers. By doing this there are no rotting carcasses worth $30 per head left lying in the paddock. This will in turn pay for both helicopter hire and yard building costs as an alternative to taxpayers' money. . . I mentioned all of the above to the NPWS staff that I talked to prior to the shoot commencing.
>
> It seems strange to me that the government and the NPWS are willing to rush head-on into a shoot and let lie program.

My questions are:

1. Why has the National Parks and Wildlife Service taken no action to implement a more humane and environmentally sound method of goat eradication in the parks?

2. Why was my constituent dismissed out of hand when he raised these issues?

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

TSUNAMI

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about South Australia's role in the tsunami reconstruction.

Leave granted.

The Hon. G.E. GAGO: We are all well aware of the terrible events that unfolded in the Indian Ocean region following the Indian Ocean tsunami and more recent earthquake. It had a devastating effect. However, we can all be very proud of the magnificent way Australia responded to the urgent need for humanitarian aid. Now that the immediate relief efforts are in hand, attention is being turned to the longer term projects of rebuilding the region. My question to the minister is: what is the state government doing to assist in this reconstruction?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for her important question. There is certainly an enormous task ahead of us, and we have been working to play a role in that rebuilding, particularly in the hardest hit region of Aceh. South Australian industry capability and the link to Asia through the Adelaide to Darwin railway puts local industry in a position to make a significant contribution to the rebuilding effort. Over the past few months the South Australian government has been working with the Northern Territory government, the Australia Indonesia Business Council, Business SA and freight operators to coordinate local efforts and to complete an efficient supply route to the region using the Adelaide to Darwin rail link.

The Adelaide to Darwin rail line is a key transport route linking the economic heartland in the south of Australia via the port of Darwin to Asia, placing South Australia in an ideal

position to be the central gathering point for much of the material that will be needed in the rebuilding program. Given the difficulty of ship access to some of the region, particularly Aceh, the government has been working with Freight Link and freight company Toll International to establish a responsive supply chain from Adelaide to the port of Darwin by rail and into the region by ship and barge. I think I have spoken about this in the council before. We recently restructured the old industrial supplies office and established the Industry Capability Network SA as part of the Department of Trade and Economic Development.

The Industry Capability Network SA will provide information on local industry capability to Austrade or project components and also offer support to local industry through the tendering process. Last Thursday I opened a workshop which was organised by Austrade with support from the state government's Industry Capability Network at which the bidding process for projects in Australia's $1 billion aid package were outlined and explained. Some of the areas of greatest need have already been identified and include: access to drinkable water through water wells and other delivery systems; water storage tanks; ponds and dams; house and latrine construction; roads; community education centres; food security restoration through the provision of training, seeds, tools, livestock and agricultural equipment; and community centres and places of worship—all things that are required to support the well being of all community members.

South Australian businesses considering involvement in the reconstruction efforts can register their interest by leaving details at the southaustralia.biz internet site. Details of companies that register their interest with the Industry Capability Network SA will be passed on to agencies including Austrade and AusAID, which are currently coordinating reconstruction efforts with regional governments, multilateral development organisations, international financial institutions, and aid agencies to assess needs and priorities needed for rebuilding the devastated areas. The state government welcomes this opportunity to work with the commonwealth government (particularly Austrade) to identify ways in which we can complement their efforts.

The state government also has much to offer the commonwealth government in developing appropriate responses in relation to master planning with the associated issues of land titles and infrastructure, the reconstruction and improvement of health care, educational and general government facilities, and rural, environmental and fisheries rehabilitation. The South Australian government looks forward to continuing its work with the commonwealth government and South Australian industry to contribute to the reconstruction of affected regions. I strongly urge local businesses considering involvement in the reconstruction efforts to register their interest without delay.

MEDICAL BOARD OF SOUTH AUSTRALIA

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the minister representing the Minister for Health a question about spending on conferences by the Medical Board of South Australia.

Leave granted.

The Hon. SANDRA KANCK: According to the Medical Practice Act 2004, the Medical Board of South Australia is charged with:

> Protecting the health and safety of the public by achieving and maintaining high professional standards both of competence and conduct in the provision of medical treatment in this state.

In the context of this explanation and the questions I will ask, members will see that that charter does not include drinking expensive wines. Our medical board hosted a national symposium in November 2000 which was attended by other medical boards from around Australia and New Zealand. It was a 1½ day meeting with a conference dinner for 85 delegates who paid $225 for the symposium and $99 for the dinner. The Medical Board paid out $7 000 for the cost of the wine alone for the conference. If the conference organising staff also attended the dinner and we round up the attendance figure to 100, it means that each person (on average) drank $70 worth of wine that night.

Overall, the South Australian Medical Board appears to spend very generously on conferences. In 2001-02 the board spent 11 per cent of its budget on conferences and, in the six financial years from July 1997 to June 2003, while the South Australian board spent an average of 5.2 per cent of its budget on conferences, Victoria spent only 0.5 per cent and Western Australia 0.9 per cent. My questions are:

1. Recognising that the Medical Board is funded by doctors through their registration, what levels of reporting are required from the Medical Board in regard to the use of funds and to whom do they report?

2. Will the minister investigate the Medical Board's use of funds on conferences including: first, whether all costs of the November 2000 symposium dinner were met by the conference attendees; and, secondly, reasons for the South Australian Medical Board's use of funds for conferences being so vastly different from medical boards in other states?

3. What benefits did the medical consumers of South Australia gain from the November 2000 symposium?

4. Does the minister consider that this matter should be drawn to the attention of the Auditor-General?

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

The Hon. J.M.A. LENSINK: I have a supplementary question. Will the minister ask whether the Premier might like to have a joint function, considering his $100-plus a head function in Sydney and Melbourne for university graduates?

The Hon. CARMEL ZOLLO: I do not believe that that actually needs or deserves a reply.

DISABLED, EMPLOYMENT

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 Employment, Training and Further Education, a question about the employment of people with disabilities.

Leave granted.

The Hon. A.L. EVANS: Last week, more than 1 500 people attended a rally aimed at trying to influence the government to direct more funding towards services for people with disabilities. The organisers of the Dignity for Disabled campaign are calling for an extra $25 million to be allocated to the disabled sector. One of the protesters, a young woman who has a disability, was reported to have said that everyone has a right to choose a career which gives their life meaning and purpose. In 2000, the government initiated a

strategy to offer opportunities for people with disabilities to gain access to vacant positions in the South Australian public sector. I understand that, since 2000, 168 people with disabilities have gained employment in the South Australian public sector as a result of the strategy. My questions are:

1. Will the minister provide summary information as to the employee and appointment type of each person with a disability who has gained employment in the public sector since 2000?

2. Will the minister provide a summary of the type of contract offered to each person with a disability since 2000, including short-term, long-term or ongoing contracts?

3. Will the minister advise which agencies have undertaken action in relation to improving the representation of people with disabilities in both leadership activities and senior positions in the South Australian public sector since the initiative commenced in 2000, to enable people with a disability to apply for positions in the public sector?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his questions. I will refer them to the minister in another place and bring back a response.

The Hon. KATE REYNOLDS: I have a supplementary question. Can the minister please advise what types of disabilities the people who have secured employment have, and also how many of those people are still in employment with the public sector?

The Hon. CARMEL ZOLLO: I will refer those further questions to the minister in another place and bring back a response.

WORKCOVER

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Minister for WorkCover, a question on the topic of WorkCover and public sector blowout.

Leave granted.

The Hon. A.J. REDFORD: Late last month, WorkCover announced that its unfunded liability had blown out to in excess of $630 million. The 2003-04 annual report for the Department of Administrative and Information Services, tabled late last year, shows that the public sector liability for workplace injury had blown out by 25 per cent in the past two years to $304 million. I refer members to page 148 of that report. The minister in another place, when confronted with this figure, said that he would have to check it. I understand he adopts the same principle as the Attorney-General, in that he signs off on annual reports without bothering to read them. The total liability of South Australian taxpayers in relation to workplace injury is now approaching $1 billion and the minister continues—

The Hon. P. Holloway: The annual reports are to the minister, not by the minister.

The Hon. A.J. REDFORD: But doesn't he read them? Is that your response—you do not read your own annual reports? That is an admission that this government does not read the annual reports.

The PRESIDENT: Order! It is not a debate; it is the explanation of a question.

The Hon. A.J. REDFORD: Thank you for your protection, sir. The minister also continues to want to blame the previous government and the WorkCover board for what is an enormous blow-out in potential liability for South Australian taxpayers. I also sought to FOI several government agencies over the past few weeks, seeking the results of various audits required to be conducted by WorkCover into each of the government agencies. I discovered that high risk occupations such as the police or those who work in parks and wildlife or in transport have not had any audit conducted into occupational health and safety standards for at least two years. My FOI revealed that the high risk occupations contained in the Department of the Premier and Cabinet, the Attorney-General's Department, Treasury and the Department of Trade and Economic Development have all had occupational health and safety audits conducted for those members of the public sector at serious risk of paper cuts or falling out of business class seats.

All the audits in relation to the CFS, the MFS and the Department of Education and Children's Services were qualified. In relation to the CFS (and I am sure the minister is listening), it was stated:

> It is clearly apparent that CFS is currently non-compliant and/or failed to provide evidence in relation to its occupational health and safety responsibilities.

It was reported that the Attorney-General's Department, which is responsible for compliance with the law in this state, did not comply with its own occupational health and safety legislation. The DECS audit was qualified in that it raised significant issues with serious potential consequences during the audit process and, in particular, I refer to questions that still remain unanswered regarding warnings about asbestos in our schools, where our children are, and fragile roofing and poor protection from falling objects, and questions in relation to the Metropolitan Fire Service. In the light of this, my questions are:

1. Is the minister aware that taxpayer net liability for workplace injury is now about $1 billion?

2. Is the minister aware that audits of state agencies appear to be conducted on an ad hoc basis without any principle behind them?

3. Is the minister aware that there has been a series of qualified audits, and what has he done to ensure that these matters have been addressed?

4. Given that the police liability has gone from $24 million to $43 million—an increase of 80 per cent in the past two years—why has an audit into the occupational health and safety of our brave police not been given greater priority?

5. Given the rapid deterioration of WorkCover and the public sector, and given the failure to properly look after occupational health and safety in the public sector, has the minister considered doing the decent thing by resigning, so that someone more competent can take over?

The PRESIDENT: Before the minister answers, in the Hon. Mr Redford's explanation of that question there was a lot of opinion, a lot of comment—

The Hon. A.J. Redford: I'm angry.

The PRESIDENT: I understand your passion. However, those issues are better addressed during matters of public concern, and the opportunities do arise. I ask all honourable members to respect their obligations in respect of making explanations and not include comment or opinion.

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

AMBULANCE SERVICE

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Emergency Services a question about South Australian Ambulance Service recruitment.

Leave granted.

The Hon. J.M.A. LENSINK: I have been contacted by some constituents who are concerned about the recruitment process of the SAAS. These constituents completed their Flinders University training in 2004. A number of them were declared fit for physicals last year, while students. Not surprisingly, the physical includes managing things such as lifting a certain amount of weight and holding sit-ups. When undergoing the physical to apply for the SAAS, students have found that they mysteriously have not passed, even if they have scored the same result as the previous year when they were declared fit.

These were for things such as not holding a sit-up for two minutes or failing weight tests, particularly for grip strength of less than one kilogram. The students have come away with the impression that failing the test is 'a bit random' and that 'it seems like the SAAS is finding anything to reject potential entrants'. These graduates are also aware that there was under recruitment in the previous year. When they apply, they are not allowed to know the benchmarks for fitness and, in successive applications, additional criteria have been added to the test. My questions are:

1. How many times has the application process been changed in the last two years?

2. Why are potential recruits being refused information about benchmarks so that they can at least work towards being declared fit and gaining employment?

3. How does this practice of the SAAS enhance the recruitment process?

4. Is the difficulty with the application process simply a rationing mechanism to reduce the number of new entrants into the SAAS?

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

BUSHFIRES

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Country Fire Service.

Leave granted.

The Hon. R.K. SNEATH: In recent weeks Adelaide and regional South Australia have experienced some unseasonably hot weather with record temperatures for April being registered. In addition, given the lack of rain across the state, can the minister tell the council what measures the Country Fire Service has taken to make sure that South Australians remain vigilant about bushfires?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important question. I am certain that it will be of interest to everybody in this chamber. The CFS has advised me today that soil in many regions of the state is the driest it has been for three years. The combination of the dry soil and the lack of rain increases the risk of bushfire. Consequently, the CFS has extended the fire danger season in seven of the state's 15 fire ban districts. The fire ban season has been extended to 30 April in the West Coast, Lower Eyre Peninsula, Eastern Eyre Peninsula, Flinders, the Riverland, the Murraylands and the Upper South-East districts. The fire ban season in the Lower South-East, Kangaroo Island, metropolitan Adelaide, and the Mount Lofty Ranges is also due to end on 30 April as previously scheduled.

Historically, burn-offs which take place outside the fire danger season are the second-highest cause of rural fires in South Australia. As we are entering a dry period that coincides with the time of the year for burn-offs, the fire ban season in the previously mentioned districts has been ordered as a precautionary measure. All land owners who plan to conduct burn-offs before 30 April will now need to contact their local council to obtain a permit. The April heat has served as a reminder that the bushfire danger in many parts of South Australia remains high. Record temperatures for Adelaide have been registered on the past two Saturdays, with the Bureau of Meteorology forecasting warm weather again this week. Around the state, the bureau has forecast fine and warm conditions through today and tomorrow with hot northerly winds expected in most regions on Wednesday ahead of the change. The bureau has also rated the fire danger in 12 of the state's 15 fire ban districts today as high with a moderate to high rating for the north-east pastoral districts and moderate ratings for the north-west pastoral and Kangaroo Island districts.

On Saturday, I am certain that most honourable members would have seen in the media that more than 40 CFS volunteers were called to a bushfire at Mount Drummond on the Lower Eyre Peninsula with more than 300 hectares of crops, grass and scrubland destroyed. All South Australians must continue to be vigilant. The decision by the CFS to extend the fire ban season in seven of South Australia's 15 fire ban districts is an indication that the combination of dry undergrowth, hot weather and strong winds could still cause problems in those regions. Only vigilance and sensible behaviour will ensure that our Country Fire Service volunteers will not have to respond to dangerous bushfire situations for the rest of the fire ban season.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. The minister has mentioned the fire at Mount Drummond. I, too, listened to Neil Ellis telling us that it was the assistance of farmers and water bombers that enabled the fire at Mount Drummond to be extinguished. Has the minister yet had a briefing as to why those particular methods of firefighting were not used during Black Tuesday?

The Hon. CARMEL ZOLLO: The issue of what was and was not used in relation to the Lower Eyre Peninsula fires last January are, of course, subject to some investigation and will be fed into the Coroner's report. As soon as that report is available, I will bring back a response for the honourable member.

MOUNT GAMBIER, RAILWAY LAND

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about disused railway land in the South-East.

Leave granted.

The Hon. IAN GILFILLAN: As previously mentioned in this place, the Democrats undertook a 'Taking Parliamentarians to the People' exercise during our rural forum in Mount Gambier last month. Amongst other matters that were

raised with us was the matter of approximately 60 hectares of vacant land in the centre of the very attractive South Australian city of Mount Gambier. This land was originally set aside as a railway reserve either side of the freight line which passed through the centre of Mount Gambier, as well as associated freight yards and railway sidings.

This freight line has not been used for at least 10 years, and it is no longer appropriate for freight transfers to be taking place in the heart of this vibrant city. Even if the freight line is refurbished, it would make most sense for the line to be relayed around Mount Gambier's outskirts, rather than go through the centre of the town. I strongly encourage the minister to take a look at this land while the House of Assembly is sitting in Mount Gambier next month. The minister would be able to see first-hand that this vacant land is an eyesore. It cuts the city of Mount Gambier in half and it is crying out for redevelopment. This position was put to us most eloquently by several constituents in Mount Gambier. Please note that this problem extends the length of this railway line. Naracoorte is in a similar position, with vacant railway yards and derelict buildings. The land is most likely a mix of land owned by the state and federal railways (we have been unable to clarify that point) and clearly should be returned to the public in some shape or form. My questions are:

1. What efforts will the minister make to have this land made available for redevelopment? The local constituents are keen that the redevelopment include quite a high percentage of open space.

2. Is the minister prepared to lobby his federal counterpart for the release of any federal rail lands in the affected area?

3. Will the minister consider transferring ownership of the state-owned lands to the relevant local authorities so that local communities get the benefit of any results, thereby profiting from the release of these lands. If not, why not?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I know that this is a matter in which my colleague, the Minister for Agriculture, Food and Fisheries, as the local member for Mount Gambier, has shown some interest. I know that he has had discussions with the Minister for Transport. I will refer the question to the Minister for Transport and bring back a reply. As I have said, I know it is a matter in which he has a significant interest. Since we are talking about Mount Gambier, I also take this opportunity to congratulate the people of that town on recently winning the Tidy Towns competition.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, it is a city, but I think they are the Tidy Towns Awards. I think it is the second largest city in this state, having surpassed Whyalla.

The Hon. IAN GILFILLAN: Will the minister please take note of the direction of the question, which specifically was to the Minister for Transport? I did not ask the question for it to be a free kick to the local member. It was specifically targeted to the Minister for Transport. Will he take note of that direction?

The Hon. P. HOLLOWAY: I will take note, and having taken note of it I will also repeat the fact that I am well aware that this issue has been raised by the Minister for Agriculture, Food and Fisheries, and I was pointing that out to the chamber. Obviously the final decision will lie with my colleague, the Minister for Transport, and it is to him that I will refer the question.

LIQUOR AND GAMBLING COMMISSIONER

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 investigation procedures of the Office of the Liquor and Gambling Commissioner.

Leave granted.

The Hon. NICK XENOPHON: Last week a report of the Independent Gambling Authority was tabled, headed 'Inquiry into an allegation of betting with a child'. It concerned allegations that a minor had bet some $20 000 at TAB outlets and agencies including $10 000 at a particular hotel on one afternoon on 26 May 2002. The authority, at paragraph 29 of the report, concluded that it was not satisfied that any relevant breach had been committed by the licensee, that is, the SATAB, and that there was no basis to consider penalty or other action. At paragraph 27 of the authority's report it stated:

> On the evidence available to the inquiry it was open to conclude that the minor arranged for a friend to place the bets.

However, the authority made a number of statements which raise serious concerns about the investigation process. At paragraph 6 it is noted that the authority does not necessarily receive details of complaints to the commissioner's office, that it is only if the commissioner perceives a problem does it receive such information that finds its way to the authority.

At paragraph 7 criticisms were made of the identification process used, which asked staff who took the bets to give identification evidence as to who it was that placed the bets. It was done by presenting the counter staff with a series of photographs. The authority said that the problems with this approach were apparent, including the fact that up-to-date photos of the minor involved were not provided as there was some suggestion from the investigators that his appearance had changed, that questions took place some two weeks after the event and that perhaps the most serious problem, the authority said, was that those who were asked to identify the minor would have been implicating themselves in a breach of a licence condition and that this might in turn affect their employment. In some cases managers were present when employees were interviewed. The authority refers to the High Court decision of Alexander and the Queen.

The Hon. P. Holloway: What's the solution to that?

The Hon. NICK XENOPHON: That is why I am asking the questions. The authority refers to the 1981 High Court decision of Alexander and the Queen, authority for the proposition that once an identification exercise has been attempted there will be a reluctance on the part of courts to receive evidence of a second attempt with the same witnesses. The commissioner in paragraph 4 of the report is reported as recommending a condition being placed on SATAB licences requiring video surveillance of all terminals. The authority at paragraph 30 stated that evidence as to staff training to hotel and SATAB staff directed to ensuring that bets are not offered to or received from minors was not convincing and recommended that staff should be required to seek identification for any younger person who seeks to place a bet, even if they think he or she is well into their 20s, because it is often so very difficult to tell.

I understand that there is a basic identification and evidence course that police officers and other investigators are required to undertake, and it has been referred to as a

basic evidence and technical evidence investigation course. My questions are:

1. What level of training did the investigators in this case have as to evidence gathering and the identification process? In particular, did they have at the very least the level of training police and other investigators have, including reference to the basic evidence-gathering course?

2. What are the basic investigation procedures in relation to the identification process of witnesses, and does the minister consider that such procedures have been complied with in this case?

3. Will the minister explain the length of time in relation to the report being handed down, given that the complaint was made in 2002?

4. Finally, what action, if any, is the minister contemplating in relation to the commissioner's recommendation of requiring video surveillance of all terminals and the method of reporting complaints and the reference made by the authority of the method of reporting complaints between the commissioner's office and the authority?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Minister for Gambling in another place and bring back a reply.

LAND MANAGEMENT CORPORATION

The Hon. J.F. STEFANI: 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 Land Management Corporation.

Leave granted.

The Hon. J.F. STEFANI: I refer to the 2001-02 and 2002-03 annual reports of the Land Management Corporation and note that during these periods the Land Management Corporation sold land totalling $19.085 million. In a recent answer to my questions asked on 27 October 2004, the minister provided the names of the purchasers of the key land sales by the LMC for both financial periods. I now wish to clarify the matter further and ask the following questions:

1. Will the minister provide details of the method of sale of the key properties for the years 2001-02 and 2002-03, as he did in his answer to my question of 25 October 2004 dealing with the financial period 2003-04?

2. Will the minister confirm the dates of the sales of each of the key land-holdings for each of the above financial years?

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

SCHOOLS, QUESTIONNAIRE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Education and Children's Services, a question about a questionnaire circulated to schools.

Leave granted.

The Hon. KATE REYNOLDS: Last week my son brought home from school a questionnaire entitled The Supplementary Enrolment Form. The background statement claims that state, territory and commonwealth education ministers have agreed to common approaches to the collection and reporting of information on student background characteristics. The second paragraph claims:

> The linking of these characteristics with students' results in national assessments in priority areas of schooling will allow schools to identify individual students' strengths and weaknesses, evaluate the influence of particular factors on student performance, judge the effectiveness of policies aimed at reducing the impact of such factors and, as necessary, take appropriate steps to improve students' performance.

Space is provided for two parents to answer the following three questions:

- What is the occupation of the parent or guardian?
- What is the highest year of primary or secondary school the parent or guardian has completed?
- What is the level of the highest qualification the parent or guardian has completed?

Parents are instructed to complete the so-called supplementary enrolment questions by ticking a box, and are told to return the form to the school. I should point out that the form does not require a signature from any of the parents or guardians whose names are printed on the form—that is, preprinted by the school—nor does the form contain any explanation of how the information will be collected, interpreted, used or stored, or by whom, although I have been told that the information will be available to individual teachers in individual schools. The form does not explain how the privacy of the parents or guardians will be protected, nor does it provide any explanation of whether or not completing the form is mandatory or optional.

Comments made to me over the weekend by parents from my son's school revealed their shared concern that this is an attempt to 'dumb down' the curriculum in certain socio-demographic areas and has absolutely nothing to do with improving education outcomes for individual students. So, my questions are:

1. When did the minister authorise the distribution of this particular form to schools in South Australia, and why does it not contain a statement explaining that providing the information is optional (assuming that that is the case) or any space for parents to sign the form?

2. How much will the distribution and collection of the form and the analysis and reporting on the data collected cost the state government?

3. How, and by whom, will the data be collected and stored, and who will have access to this data and any reports generated?

4. How will the minister ensure that privacy of parents is protected from misuse?

5. How will the data be used by the state government to achieve the many claims made in paragraph 2?

6. Lastly, can the minister assure me that this information will not be used to dumb down educational programs to the lowest common educational attainment or occupational group of parents in any school or district?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer those questions to the Minister for Education and Children's Services in another place and bring back a response.

AMBULANCE STATIONS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the minister representing the Minister for Health a question about ambulance stations.

Leave granted.

The Hon. T.J. STEPHENS: In today's *Advertiser*, the government claims that it will build three new ambulance stations. Sadly, there is no mention of McLaren Vale.

Members would be aware that the Ambulance Board recognised three years ago that a station be built at McLaren Vale, but this government has chosen not to build it for political reasons. Again, this year, the CEO of the Ambulance Board reiterated the board's view that one is needed. Members will also be aware that the region that needs to be serviced by McLaren Vale has the worst response times in the metropolitan area. In some cases, the response times are twice as long as that which has been recommended. My question is: does the minister acknowledge that people's lives are at risk through these poor response times, and why has the government refused to build an ambulance station at McLaren Vale as requested by the Ambulance Board?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer that question to the Minister for Health in another place and bring back a response.

REGIONAL FACILITATION GROUPS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the minister representing the Premier a question about regional facilitation groups (RFGs).

Leave granted.

The Hon. J.S.L. DAWKINS: Members will be aware that the government established six regional facilitation groups following the successful regional coordination trial conducted by the previous government in the Riverland. Facilitation groups are made up of senior regional representatives of government departments. I have previously sought assurances that relevant local government authorities and regional development boards would be included in the groups, as was the case with the Riverland trial. Unfortunately, the response from the government was that local government and regional development representatives would be invited to attend regional facilitation group meetings from time to time.

I am aware that a number of regional development boards have never been invited to participate in the RFG meetings. Facilitation groups were originally established by the Office of the Commissioner for Public Employment (OCPE) and are administered by the Department for Administrative and Information Services (DAIS). The Minister for Industrial Relations even got involved at one stage. My questions are:

1. What action has been taken by the OCPE or DAIS to ensure that local government and regional development organisations are represented on RFGs?

2. Will the Premier provide details of the frequency of RFG meetings in the six regions since their inception?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the appropriate minister, whom I assume is the Premier, and bring back a reply. I had an opportunity to meet with one of these groups in the Murray region some time back when I was the minister for regional development, so I know how important these groups are for discussing local regional issues. I will see whether I can get the information requested by the honourable member and bring back a reply.

HONG KONG OFFICE

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister for Industry and Trade questions about the South Australian government office in Hong Kong.

Leave granted.

The Hon. CAROLINE SCHAEFER: Last week, the state government announced that it is setting up an office in Hong Kong to help South Australian companies breaking into export markets in the region. It noted that fruit, wine and seafood are exported into China through Hong Kong and that an agreement has been signed to put a South Australian representative in the Austrade office. My questions to the minister are:

1. What was wrong with the South Australian office which was already there but which was closed by this government?

2. What has happened to Mrs Joyce Mack, who very adequately represented this state for successive governments over a long period of time?

3. Is she, in fact, the representative in the new Austrade office? If not, who will be the person doing that valuable work which, as I say, has been carried out for many years by Mrs Mack and her assistants within our own office?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I made some comments in relation to this matter some time back but, essentially, the answer to the first part of the question is that the cost of the Hong Kong office was almost $1 million per annum. It was a very expensive office because, in particular, of the high cost of living and accommodation within Hong Kong. Also, as I indicated earlier, what has happened over just the past few years since China joined the World Trade Organisation is that China is increasingly using other ports as entrance to China. Hong Kong had a monopoly on trade going into China some five or 10 years ago. However, with a growing Chinese market, that situation is changing rapidly. Other ports, such as Shanghai, are increasingly being used for direct trade to China. That could change to an even greater extent in the future should any free trade agreement develop between Australia and China.

Hong Kong is still very important for trade, but the amount of trade that is going through Hong Kong to China, as a proportion, is declining. In recognition of this changing situation, the government has sought to use the resources that were available for that office in Hong Kong to keep a presence there, because it is still an important market and we can do that by sharing our facilities with Austrade, and we are also seeking to open another office with Austrade in India, which is a country of some 1.3 billion people. I think it has a larger population than China these days, and it is also a country where there is a very rapidly growing market. Most economic observers are increasingly seeing the importance of India. Just as China has been so important to the world economy in recent years, so India will be in the future, and it is important that we use some of our resources to try to open access to that market.

I also point out to the honourable member that a number of other states have opened offices recently in India. For example, I think the Queensland government has an office in Bangalore, and other states also have a presence there. So it was the view of this government that, while it is still important to keep that presence in Hong Kong, we believe that we could do that just as effectively as has been done in the past through using the facilities with Austrade, where we can reduce the overhead costs. We could also, within the budget, get a presence into this very important Indian market. Mrs Joyce Mack certainly has done a very important job for this state in the past, and that is recognised. As for the new person in Hong Kong, that matter is now being negotiated with Austrade, and we should have a decision on that very shortly.

The Hon. R.I. LUCAS (Leader of the Opposition): I have a supplementary question. Can the minister indicate what happened to the previous incumbent, Mrs Joyce Mack? Was she dismissed or did she resign? What are the costs of the new office arrangement in Hong Kong now?

The Hon. P. HOLLOWAY: As I said, the negotiations with Austrade have been ongoing, so I will take the question in relation to the costs on notice. In relation to Mrs Joyce Mack, her contract has been completed.

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 relating to the Metropolitan Fire Service.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that traditionally the MFS has employed three managers in regional areas of the state. Generally, these positions have been based in the Limestone Coast and Riverland regions, and also at either Port Lincoln or Whyalla. I understand that these managers supervise both full-time and retained MFS staff. My questions are:

1. Will the minister indicate the number of MFS managers currently employed in regional South Australia?

2. Will she indicate whether these regionally-based managers are given the rank of station officer or the higher level of district officer?

3. Will the minister assure the council that all managers ranked as district officers have successfully completed the examinations that have always been a prerequisite for holding such a position?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I am not certain regarding the specifics about which the honourable member has asked but, certainly, the MFS Country Operations currently provides services in 17 regional towns within the state—and Country Operations provides basically the same services, I am sure the honourable member would agree, as metropolitan operations in the areas of fire fighting, vehicle accident rescue, hazmat incidents and other emergencies. Country Operations maintains an establishment number of about 250 retained, or part-time, and 30 full-time staff. The complement of retained staff as at 31 January this year was 236. Recruitment in the respective towns that are understaffed is currently under way. The state of South Australia has full-time, part-time, retained and volunteer firefighters. The South Australian Metropolitan Fire Service employs both full-time and part-time firefighters and does not utilise volunteers. As I have said, I will obtain some further advice on the specific questions that the honourable member asked and bring back a response.

STATE EMERGENCY SERVICE

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I seek leave to provide the chamber with some further information in relation to a question without notice asked by the Hon. Robert Lawson.

Leave granted.

The Hon. CARMEL ZOLLO: The Hon. Robert Lawson asked a question about the fundraising activities of the SES following the Auditor-General's comments. On 30 June 2004 in the Auditor-General's Report, the SES fundraising income was included in the financial statements. The Auditor-General noted that funds raised by SES brigades had not been updated to the general ledger. Of course, these funds have been updated to the general ledger and were reported in the audited result. In the case of the SES, these funds have been reported and included in the financial statement of ESAU. The set-up of ESAU and the transfer of SES in July 1999 created a single entity for parliamentary reporting purposes.

As honourable members would know, I have now tabled the Fire and Emergency Services Bill which, in turn, separately identifies SES, rather than having it consolidated with ESAU. For the 2004-05 financial year, the SES will continue to be reported as part of ESAU, or until such time as, hopefully, the Fire and Emergency Services Act is proclaimed in the state. The emergency services sector has been working with volunteers to adhere to Australian accounting standards and, whilst it is not the intent of ESAU or the SES to control these fundraising dollars or activities, nevertheless, they must be accounted for. It is the expectation that funds given by the community are appropriately accounted for, that adequate controls are in place and that good governance prevails.

REPLIES TO QUESTIONS

AUDITOR-GENERAL'S REPORT

In reply to **Hon CAROLINE SCHAEFER** (27 October 2004).

The Hon. P. HOLLOWAY: The Minister for Agriculture, Food and Fisheries has provided the following information:

The Auditor-General identified that two allowances had been overpaid to employees during the financial year totalling $32,000. The overpayments originated from incorrect processing of an on call allowance in one instance and a retention allowance in the other instance. It should be noted that improved system controls have been implemented to minimise risk of future overpayment.

OUTLAW MOTORCYCLE GANGS

In reply to **Hon. T.J. STEPHENS** (27 October 2004).

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

1. The Commissioner of Police has advised there has been significant interaction between the police and the City of Onkaparinga regarding the premises in question.

The original development application to use the address for a motor cycle workshop has been rescinded and it is now being used for residential purposes.

A number of Rebels members attended there on 8 October 2004 as part of a club event. There were no significant acts of public disorder at that time and I am advised that there have not been any such incidents since the Rebels have been associated with the premises.

The Commissioner of Police has advised the City of Onkaparinga that based on advice of his senior officers, the alterations to the site do not constitute fortifications and there are no grounds on which police could intervene under fortification legislation.

2. This is new legislation and it was not intended that it be applied without sufficient cause or with regularity. It is there to prevent those considering fortifying their premises against lawful police entry from doing so, and to provide the Commissioner of Police with the capacity to intervene when appropriate.

3. I am informed that members of the Rebels live in the southern suburbs as they do in other suburbs across the metropolitan area. Their choice of residence has not been driven by the actions of the Government.

In reply to **Hon. T.J. STEPHENS** (23 November 2004).

The Hon. P. HOLLOWAY: The Minister for Environment and Conservation has advised:

Policing issues relating to outlaw motorcycle gangs are addressed by SAPOL not the office for the Southern Suburbs. However, as the Local MP I have made representations on the issue.

FOSSIL PROTECTION

In reply to **Hon. CAROLINE SCHAEFER** (16 February).

The Hon. P. HOLLOWAY: The Minister for Environment and Conservation has been advised:

1. The purpose of preparing and releasing the Fossil Protection Discussion Paper for public consultation was to ensure that all those who have an interest in fossils have the opportunity to provide their views regarding the protection of fossils in South Australia. The paper is considered to be the starting point for establishing a process of stakeholder consultation and discussion on this matter.

The feedback provided on the discussion paper will assist in deciding whether some form of protection for fossils is necessary. If it is decided that a legislative approach is to be developed a more detailed position paper will be prepared for further discussion with key stakeholders, such as Gemcasa.

2. A total of 20 submissions were received including one from Gemcasa and four from other groups with an interest in fossils and geology. It is not standard practice to acknowledge receipt of submissions on discussion papers such as this.

POLICE COVER-UP

In reply to **Hon. A.J. REDFORD** (17 February).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. The Police Complaints Authority has put in place a process by which they can be dealt with and, I hope, satisfied. If the constituent has concerns remaining at the end of the process, the Authority is well able to address them should she so wish.

2. The question states the facts incompletely. The present complaint is about an off-duty police officer. A complaint about an off-duty police officer acting in his private capacity is not within the jurisdiction of the Police Complaints Authority. The Police (Complaints and Disciplinary Proceedings) Act, section 16, applies only to complaints about the conduct of police. Conduct is defined in section 3 of the Act and is about the acts or omissions of police officers in the execution of their duty.

Also outside jurisdiction is a complaint about conduct made by a police officer to another police officer (section 16 (5)(a)). A complaint made to the Authority by a third party, such as this constituent, that a police officer's complaint has not been acted upon, is within the jurisdiction of the Authority. It was on that ground that the present complaint was registered and investigated.

3. Yes; the Authority had recommended a process for providing feedback to the constituent. It was reasonably foreseeable, as outlined in the answer to question one, that the process of feedback might leave the constituent with concerns unsatisfied and that she might call on the Authority to investigate those concerns. For that reason it would have been premature for the Authority to have expressed a concluded view about the internal investigations until proper feedback had been given to the constituent.

4. The question suggests, incorrectly, that the only answer given to the constituent was that the matters complained of were matters of which SAPOL was already aware. The constituent was also advised that those matters had been investigated and addressed. Steps were also taken to provide her with proper feedback about all of those things.

5. The Minister for Police explained the Government's handling of this matter to the House on 17 February 2005.

MINING EXPLORATION, APY LANDS

In reply to **Hon. KATE REYNOLDS** (15 February).

The Hon. P. HOLLOWAY: I am pleased to provide the names of the TAPY and APY Executive members who attended the Kimberley field trip organised by PIRSA Mineral Resources Group. They are:

Gary Lewis	Former Chairperson APY Land Council
Rex Tjami	Director APY Executive
Punch Thompson	APY Executive
Murray George	Chairperson TAPY L&C
Muyuru O'Toole	Executive Member TAPY L&C
Langaliki Lennon	Executive Member TAPY L&C
Adrian Intjalki	Executive Member TAPY L&C
Bronwyn Hodgson	Coordinator TAPY L&C

AUDITOR-GENERAL'S REPORT

In reply to **Hon. R.I. LUCAS** (14 October 2004).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

1. In February 2003 the full time equivalent number of staff in the Finance Branch of the Department of Treasury and Finance was 41.9 and in Government Accounting and Reporting Branch 34.9. In September 2004 those figures were 50.1 and 41.2 respectively. The actual salaries expense for Finance Branch in 2002-03 was $3.420 million and in Government Accounting and Reporting Branch, $2.873 million. The 2004-05 salaries budget for Finance Branch was $4.580 million and for Government Accounting and Reporting Branch, $3.005 million.

2. The role of the Finance Branch is, broadly, to provide decision support, documentation and policy analysis in relation to the annual budget of the government and to monitor the financial performance of the individual agencies of government in respect of budget initiatives and overall budget outcomes. The role of the Government Accounting and Reporting Branch is to develop and communicate financial management policies and to produce timely and accurate aggregate financial information in relation to government finances. Neither branch has responsibility for auditing agency accounts. Treasury is entitled to rely on the information provided to it by agencies. Unless this information gives grounds for raising further questions, Treasury accepts it at face value.

3. Account managers from the Department of Treasury and Finance advised the Treasurer on the nature of and actions taken by agencies in response to the matters contained in the Auditor-General's Report. The end of year review process has just been completed and account managers play a lead role in this process. The process reviews end of year financial outcomes, financial management processes within agencies and agencies' proposed responses to any comments made by the Auditor-General. However it does presume that agencies provide accurate information to Treasury unless there is evidence to the contrary.

4. Treasury is not resourced to do forensic investigations of agency accounts on the off chance that agencies are deliberately misleading Treasury.

The Auditor-General does have a role which requires him to actively check the veracity of agency accounts. It makes no sense for Treasury to duplicate this. The Auditor-General, in accordance with good auditing practice, takes a risk management approach to the audit of an agency. As discussed on page 689 of the Auditor-General reports, the Auditor-General concentrates his checking in areas judged to be higher risk.

> "In accordance with professional Auditing Standards, it is appropriate in my view, in the absence of evidence to the contrary, and approaching the audit with appropriate professional scepticism, for Audit to expect that the Chief Executive and other senior executives of public authorities will act lawfully at all times and to reflect this assumption in planning the audit of agencies.

Treasury Account managers are responsible for assisting agencies to meet the information requirements of the budget process, to provide policy advice to the Government on the budgets and budget initiatives of agencies and to monitor the overall financial activity of agencies in comparison to budgets.

In reply to **Hon. R.I. LUCAS** (10 November 2004).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. The Attorney-General did not receive any specific advice from his Department on variations in trust fund accounts for estimates committee discussions and budget bilateral meetings in 2003 and 2004.

2. It is not possible to provide an answer on the number of separate documents which the Attorney-General has received since March, 2002, which refer to the issue of unapproved carryovers.

Through the Cabinet-approved carryover process, the Attorney-General's Department had carryovers refused in Round 1 for 2002-03, Round 1 and Round 2 for 2003-04. Briefings were provided to the Attorney-General on this as part of the normal budget reporting for both the Estimates Committee and Bilateral processes. None of these briefings included reference to the Crown Solicitor's Trust Account.

CROWN SOLICITOR'S TRUST ACCOUNT

In reply to **Hon. R.I. LUCAS** (28 October 2004).

In reply to **Hon. J.F. STEFANI** (28 October 2004).

The Hon. P. HOLLOWAY: The Attorney-General advises as follows:

Delegated Authority.

Since March, 2002, I have not signed any document that gave delegated authority or approval to any officers to operate the account known as the Crown Solicitor's Trust Account.

Each year I sign a set of financial delegations for expenditure controls within the Attorney-Generals' Department budget.

Confirmation of Mr McPherson's testimony to the Economic and Finance Committee.

Yes. My explanation as to my knowledge of the existence of the Crown Solicitor's Trust Account has been given to the House on many occasions.

Date of Sworn Evidence to the Auditor-General.

17 September 2004.

In reply to **Hon. R.I. LUCAS** (7 December 2004).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. The Auditor-General reported $12.4 million for the Crown Solicitor's Trust Account balance but the document from the Crown Solicitor's Office released under the freedom of information request reported $10.3 million. The discrepancy of $2.1 million is attributable to unpresented cheques as at 30 June, 2004.

In the Auditor-General's Report, the amount of $12.4 million represents the balance in the Westpac Bank account statement.

The Crown Solicitor's Office figure includes adjustments to reflect the actual cash position for year end in the general ledger.

A bank reconciliation was prepared to reconcile the cash at bank and cash per book entry. The difference of $2.1 million is the total of cheques not yet presented to the bank as at 30 June, 2004, but issued before to the year end. The officer responsible for this reconciliation is the Receiver of Revenue in the Business and Financial Services Unit of the Attorney-General's Department.

The difference in the figures does not represent discrepancies or errors.

2. Yes.

PREMIER, TEXT MESSAGES

In reply to **Hon. J.M.A. LENSINK** (6 December 2004).

In reply to **Hon. D.W. RIDGWAY** (6 December 2004).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

The SMS idea came from the Editor of the *Sunday Mail*, which organised the mobile number and support staff to take the messages over a three day period. In that time, more than 1200 SMS were received. These were then printed out for the Premier. Edited out before reaching the Premier's office on the Friday following the original *Sunday Mail* story were those texts received from people who did not leave a return mobile number. Obviously they could not receive replies.

I would have thought that the Liberal Opposition would have supported this excellent initiative by the Editor of the *Sunday Mail*. I was delighted to participate and spent hours assisted by personal staff in providing the replies.

In all, 1,050 SMS were received by the Premier's office and by December 16, all replies from the Premier had been supplied to the *Sunday Mail* so that its technicians could then send the replies. The exercise was purely voluntary and people knew their mobile numbers would be revealed in the exercise because the whole idea was that they would receive a reply.

GOVERNMENT, PERFORMANCE

In reply to **Hon. R.I. LUCAS** (15 February 2005).

In reply to **Hon. A.J. REDFORD** (15 February 2005).

In reply to **Hon. NICK XENOPHON** (15 February 2005).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. The question is based upon a deliberately false premise. The report was already publicly available. The question for the Parliament was whether this report should be shielded with the privileges of Parliament. Government Members believed that all Members should have had the opportunity to read the document before giving the author exemption from, for example, defamation suits.

2. The tabling of the either the Olsson-Chung Report or the Nicol Report in Parliament is not an administrative decision to which natural justice would apply (for example, as it would to the exercise of a statutory power or a statutory function). Rather, the tabling of this report was a political act done in Parliament. The Olsson-Chung Report was tabled with the concurrence of the Anglican Archdiocese of Adelaide and the then Archbishop, the Most Revered Ian George. It was tabled without dissent. The provenance of the Nicol Report, whether it was defamatory, whether it had the imprimatur of the Primate of the Anglican Church of Australia, and whether it reflected on alleged victims was unclear when the Member for Unley ambushed the House with a proposal to table it. It appeared that only two members of the House had read it at that time - the Member for Unley and the Attorney-General. The Government has no objection to Mr Ian George's replying to the Olsson-Chung Report through the forum of Parliament provided the House is clear on what it is voting for or against.

In response to the supplementary question raised by the Hon. A.J. Redford, the Attorney-General, when he was in Opposition in 1998, moved to introduce a right-of-reply in the House of Assembly. It was defeated by the Liberal Party on party lines. The Government has received no intimation that House of Assembly Liberals have changed their minds.

In response to the supplementary questions raised by the Hon. Nick Xenophon, the answer is

Yes.

DIRECTOR OF PUBLIC PROSECUTIONS

In reply to **Hon. R.D. LAWSON** (26 October 2004).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

Ball Public Relations was engaged in October 2003, after the need for media training arose from the Nemer Case. Mr Kym Kelly, the Acting Chief Executive at the time, approved a request from the Office of the Director of Public Prosecutions to seek a media trainer.

The Office of the Director of Public Prosecutions have since used Ball Public Relations.

When Ball Public Relations was first engaged, the estimated cost was below $20,000. This was classified as a low-cost consultancy under Justice procurement policies. It was therefore permissible to seek only one offer.

Unsigned letters from Ball Public Relations dated 18 August 2003, and 31 October 2003, show that Ball Public Relations was approached by the Office of the Director of Public Prosecutions and was later engaged by the Office.

No corresponding letter from the Office of the Director of Public Prosecutions to Ball Public Relations has been located.

The Office of the Director of Public Prosecutions is now going through a tendering process to formalise a contract for its long-term needs. In addition, to cater for its public-relations needs until this competitive tendering process is completed, the Office of the Director of Public Prosecutions will be seeking a waiver of tender for Ball Public Relations to continue to provide services up until early 2005.

State Supply Board policies are now being followed by the Office of the Director of Public Prosecutions.

The Attorney-General gave a ministerial statement in the House of Assembly on Monday 28 February 2005, informing the House that Mr Stephen Pallaras, Q.C. had been appointed as the new Director of Public Prosecutions.

MENTAL IMPAIRMENT PROVISIONS

In reply to **Hon. R.D. LAWSON** (22 November 2004).

The Hon. P. HOLLOWAY: The Attorney-General has provided this advice:

Ms Nelson makes some valid points; however, it is difficult to say whether courts have been too lenient or otherwise without looking at the facts and results in particular cases.

The law itself states that if a person is mentally incompetent to commit the offence or unfit to stand trial, he or she is found not guilty but is subject to detention for a 'limiting term' pronounced by the judge. The courts have decided that the limiting term is the maximum sentence appropriate to the offence deemed to have been committed. In the case of murder, that would be life. In the case of common assault, that would be 2 years. That is a fixed outer limit.

At any time during the limiting term, the court may, on the application of the Crown, the defendant, Parole Board, the Public Advocate or another person with a proper interest in the matter, vary or revoke a supervision order and, if the order is revoked, make, in substitution for the order, any other order that the court might have made under the mental impairment provisions in the Criminal Law Consolidation Act.

The court, in deciding such proceedings, among other things, should have regard to whether the defendant is, or would if released be, likely to endanger another person, or other persons, generally.

The Attorney-General sought advice on the mental impairment provisions from the Policy and Legislation Section of his Department.

For the purpose of assisting the court to determine proceedings under mental impairment provisions, the Crown must provide the court with a report setting out, so far as reasonably ascertainable, the views of the victim (if any) of the defendant's conduct; and if a victim was killed as a result of the defendant's conduct, the next of kin of the victim.

The Attorney-General points out, however, that a report is not required if the purpose of the proceeding is to determine whether a defendant who has been released on license should be detained or subjected to a more rigorous form of supervision; or to vary, in minor respects, the conditions on which a defendant is released on license.

Furthermore, a means a person who suffered significant mental or physical injury as a direct consequence of the offence, and the next of kin of a person killed means that person's spouse (or putative spouse), parents and children.

The Forensic Mental Health Service employs a social worker to prepare reports on the views of victims or next of kin, such as Peter Hurst's next of kin.

The Attorney-General met with Ms Nelson to discuss these issues in May, 2003. At the end of the meeting, the Attorney asked that Ms Nelson summarise her submissions in writing so that he could use the letter as the basis for obtaining further advice. Ms Nelson's letter of 24 May, 2004 to the Attorney was the result of their discussion. It was never intended that this letter would receive a separate response.

COURTS, CRIMINAL

In reply to **Hon. R.D. LAWSON** (14 February).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. The question refers to figures recently published by the Australian Bureau of Statistics in the publication Criminal Courts 2003-04. This records that the number of persons sentenced by higher courts to serve custodial sentences in South Australia is 49 per cent of those proved guilty, the lowest rate in Australia. The highest rate is 85 per cent in the Northern Territory.

The question appears to refer to a table that appears in the "Summary of Findings" at page 10 of the Report. The relevant figures are provided in detail in Table 14 at page 42.

The per centage of offenders sentenced to custody in prisons in States and Territories are as follows:

Northern Territory	84.5 per cent
New South Wales	75.9 per cent
Western Australia	67.8 per cent
Australian Capital Territory	60.6 per cent
Victoria	54.7 per cent
Tasmania	54.4 per cent
Queensland	50.7 per cent
South Australia	48.9 per cent

Although the Northern Territory, New South Wales, Western Australia and the Australian Capital Territory have a noticeably higher rate of imprisonment than other States, the remaining four States do not differ much, the range being 48.9 per cent to 54.7 per cent.

When suspended sentences are excluded, South Australia has the lowest proportion at 49 per cent, but only by the smallest of per centages. The difference between many of the States and Territories is small. The other States that were reported as having a low number of offenders sentenced via custodial orders (excluding suspended sentences) were Queensland (50.7 per cent), Tasmania (54.4 per cent), and Victoria (54.7 per cent). It is evident that these figures are very close to South Australia's, and that Northern Territory's figure of 84.5 per cent probably skews the data. It should also be noted that the number of defendants sentenced via custodial orders (excluding suspended sentences) in South Australia increased from 44 per cent.

Detailed information provided with the Report suggests that in South Australia a fully suspended sentence is imposed more frequently than in the other States and Territories, contributing to the lower rate of imposing a custodial sentence.

Table 14 of the Report indicates that sentencing patterns have varied somewhat from jurisdiction to jurisdiction and year by year. In the year 2001-2002, the per centage of offenders sentenced to custody in prisons was lower in Queensland than in South Australia. In the year 2002-2003 the per centage in the Australian Capital Territory was lower than in South Australia.

2. I do not consider the figures are cause for alarm. The Opposition have focused on one set of statistics for a particular jurisdiction. One could just as easily focus on remand rates in the S.A. Magistrates Court, which are among the highest in the nation.

3. For the past three years the Government has been amending legislation that is tough on law-breakers and aligns the criminal law with public values and expectations. The Government Leadership in this area can be expected to continue.

4. The law and order scorecard is a compilation of Government achievements that utterly dispels the regular Liberal Party statements to the media that the government "does nothing". For a lesson on how to be a do-nothing government, one needs only look to the Liberal years.

GREAT ARTESIAN BASIN

In reply to **Hon. SANDRA KANCK** (15 February.

The Hon. P. HOLLOWAY:

1.Olympic Dam is currently using around 33 ML/d from the two borefields that WMC has in the Great Artesian Basin. Water extractions are metered at each production bore. WMC records the meter readings and provides the water consumption volumes in the Borefield Annual Report as required by the Roxby Downs Indenture. This is provided as part of their annual Environmental Monitoring Program reporting. The reports are public documents.

2. WMC has indicated to the Government that its current prefeasibility study will be completed in early 2006. At that time it will have a much better idea of the quantity of water that will be required for the proposed expansion. Currently all aspects of WMC's water cycle are being studied including potential new sources and its use in processing and re-cycling, in an attempt to minimise the amount, cost and environmental impact associated with the additional water that would be required. The mining method and extent of the expansion, both yet to be decided, will also affect the quantity of water involved. At this stage, it is therefore not possible to give a firm answer on either the likely future quantity or what source might be used.

3. From an Indenture perspective, change of ownership will not require any legislative change at state level.

FARM CRIME

In reply to **Hon. J.S.L. DAWKINS** (22 September 2004).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

Information about the cost of farm crime is available from the National Farm Crime Survey, which was last conducted in 2002-03 by the Australian Institute of Criminology (AIC) in conjunction with the Australian Bureau of Statistics (ABS) and the Australian Bureau of Agricultural and Resource Economics (ABARE).

This study surveyed dairy and broad acre operations with an estimated value of agricultural operations (EVAO) of $22,500 or more and farming operations, viticulture, poultry and horticulture with an EVAO of $5,000 or more.

Although no State-based analyses have been published, limited national findings from the survey were recently released in the publication Crime Prevention for Farms: A Guide for Farmers and Rural Communities. These findings indicate that farm crime results in estimated total losses (total costs and loss of income) of $70 million across Australia. This equates to a national average cost of $5,701 per farm.

The report also reveals differences across types of farms with grain, sheep and beef cattle farms averaging $7,723 in costs per farm compared to only $847 per farm for other cropping farms. Furthermore, the cost of crime was found to increase with the size of the farm, with those farms over 50,000 hectares averaging costs of $59,430 in crime per farm.

The Minister for Police has provided the following information:

The Australian Institute of Criminology (AIC) in a National Farm Crime Survey 2001-2002, estimated farm crime to cost $72 million to broad acre and dairy farmers. Within this study the term farm crime constituted: livestock theft or rustling, theft of farm vehicles, machinery, equipment, materials, farm produce, small tools, spare parts and damage/vandalism (including arson).

The term ‘farm crime' is all encompassing by definition and is open to interpretation therefore making the process of quantifying South Australian ‘farm crime' statistics problematic. The Commissioner was advised it is difficult for the South Australia Police (SAPOL) to provide victim based information on ‘farm crime' due to a lack of specificity in the manner by which the data is collected and collated. SAPOL's Business Information Section is currently undertaking a project to improve the data collected from primary industries.

The AIC's National Farm Crime Survey 2001-2002, highlighted that only half of the victims of farm crime reported incidents to police, therefore the low reporting rate further impedes the ability of SAPOL to capture the true statistical nature of ‘farm crime'.

The Commissioner of Police has advised SAPOL actively undertakes a diverse range of crime reduction techniques in an effort to educate the community about ‘farm crime' and the strategies they can implement to reduce the likelihood of becoming a victim of crime. Such techniques include; the dissemination of educational material via both electronic and print media, involvement in and the promotion of Neighbourhood Watch and liaising with interstate counterparts to identify emerging issues and complementing strategies.

SAPOL is heavily involved in educating farmers to aid in the investigation process of ‘farm crimes'. In addition, SAPOL has introduced a comprehensive online manual, the ‘Live Stock Theft Investigation Précis' to assist police in investigating this type of crime. Country Local Service Areas also conduct proactive policing operations to gather intelligence, identify offenders and reduce the incidence of ‘farm crime'.

YOUNG OFFENDERS, GAOLING

In reply to **Hon. T.G. CAMERON** (25 November 2004).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

This response reports on matters finalised in the Youth and Adult Courts between 1 July 2002, and 30 June 2004.

Only cases that were solely graffiti offences have been included, as other offences in addition to any graffiti charges may influence the type and severity of penalty handed down. Matters dealt with by family conference or formal caution have also been excluded.

It should be noted that we are only able to identify those cases where the defendant has been charged with a graffiti offence under the Graffiti Control Act. In some cases prosecutors may decide to charge the individual with damage property offences (Criminal Law Consolidation Act s85 (3)). Our systems are not able to identify graffiti type offences if the offender is charged under the broader property damage legislation.

1. During the 2002-2003 and 2003-2004 financial years there were a total of 220 cases finalised in the youth and adult courts with a graffiti-related charge as the only offence. These 220 cases involved a total of 194 individuals and 336 offences. There were 139 adults and 55 juveniles involved in those cases.

Only one individual was sentenced to imprisonment.

2. This adult male had no prior findings of guilt for a graffiti offence but had 40 prior findings of guilt for other offences and had previously spent time in prison. Four of his prior findings of guilt involved property damage offences.

3. This man was sentenced for a period of seven days for two offences of mark graffiti and carry graffiti implement.

4. As can be seen from table 1. below, in 107 of the 220 cases (48.6 per cent) finalised there was a conviction recorded. In a further 82 cases (37.3 per cent) the defendant was found guilty but did not have a conviction recorded.

Of those 189 cases where the defendant was found guilty of a graffiti offence 80 (42.3 per cent) received a fine as their major penalty, followed by 37 (19.6 per cent) who received a community service order as their major penalty. (see table 2).

5. Based on these cases, fines ranging from $20 to $500 and totalling $13,300 were issued.

As stated above, however, this figure excludes cases where the offence was charged under damage property legislation and cases where a specific graffiti charge was also laid in conjunction with other offences.

Table 1. Outcomes for graffiti cases finalised in the Youth and Adult Courts during 2002-2003 and 2003-04.

Outcome for Major Charge—Graffiti Cases finalised 2002-2003 to 2003-2004	Frequency	Per cent
Convicted	107	48.6
Guilty-no conviction recorded	82	37.3
Dismissed for want of prosecution (no trial) (TNE - Tendered no evidence)	3	1.4
Dismissed—trial situation	1	0.5
Charge withdrawn—prosecution application (withdrawn)	27	12.3
Total	220	100.0

Table 2. Major penalty handed down for graffiti offences found guilty in the Youth and Adult Courts during 2002-2003 and 2003-2004.

Major Penalty for Graffiti Cases with a finding of guilt 2002-03 to 2003-04	Frequency	Per cent
No penalty	30	15.9
Other order	25	13.2
Fine	80	42.3
Bond without supervision	12	6.4
Community service order	37	19.6
Suspended imprisonment	4	2.1
Imprisonment	1	0.5
Total	189	100.0

OFFICE OF THE UPPER SPENCER GULF, FLINDERS RANGES AND OUTBACK

In reply to **Hon. D.W. RIDGWAY** (2 June 2004 and 9 December 2004).

In reply to **Hon. J.F. STEFANI** (2 June 2004 and 9 December 2004).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

1. No overseas travel at official expense has been undertaken or is planned which relates to Regional Ministerial Offices. Mr Jarvis did travel to India with the Premier in his capacity as Primary Industries adviser in October 2004. This was funded from the Premier's Office budget.

Interstate travel has been undertaken by the Manager and Ministerial Officers in the course of their duties.

2. Details relating to travel undertaken as at 10 December 2004, which relates to Regional Ministerial Offices is listed below:

Regional Ministerial Offices

Interstate travel as at 10 December 2004

July 2002 Justin Jarvis (in capacity as Adviser to Minister for Regional Affairs

Darwin/Alice Springs

Met with Territory officials regarding regional offices, regional development policy and Desert Knowledge Australia.

August 2002 Naomi Bartlett

Alice Springs

Attended Desert Knowledge Symposium

July 2003 Jeremy Makin

Travelled by car from Murray Bridge to Mildura return

Attended environmental flows conference

September 2003 Naomi Bartlett

Alice Springs

Official launch of Desert Knowledge Australia

October 2003 Justin Jarvis

Alice Springs

Participated in Desert Knowledge CRC ‘governance' workshop and held discussions with Desert Knowledge officials.

March 2004 Justin Jarvis/Naomi Bartlett

Travelled by car from Port Augusta to Broken Hill and return

Met with local civic and business leaders regarding Desert Knowledge activities

July 2004 Naomi Bartlett

Alice Springs

Participated in Desert Knowledge Australian linked business project workshop and training session.

August 2004 Justin Jarvis

Perth/Kalgoorlie

Met with Desert Knowledge CRC researchers, Regional Development Ministers Office and Desert Knowledge Australia and contacts in Kalgoorlie.

September 2004 Justin Jarvis/Naomi Bartlett

Alice Springs

Participated in Sustainable Economic Growth for Regional Australia conference/ made presentation to Desert Knowledge seminar

**October 2004 Justin Jarvis

Alice Springs

Participated in Desert Knowledge CRC project development seminar

**Airfares and accommodation expenses met by Desert Knowledge Cooperative Research Centre

Mr Justin Jarvis is the coordinator of Desert Knowledge Australia activities for the South Australian Government and has been appointed to the Desert Advisory Forum (DAF). The DAF provides advice to the board of the Alice Springs based Desert Knowledge Cooperative Research Centre and is drawn from organisations, business and government from across Australia.

The Office of the Upper Spencer Gulf, Flinders Ranges and Outback provides administrative services to support Desert Knowledge activities within the State.

The role of Regional Ministerial Offices in supporting Desert Knowledge activities has proved invaluable, with several CRC projects being funded within the north of South Australia.

It is recognised that outback communities have much in common, and that South Australia's proximity to major centres like Alice Springs provides opportunities to further develop business, tourism and community links.

Further relevant travel to support South Australian involvement in Desert Knowledge is planned.

3. and 4. Travel expenses, apart from those paid for by the Desert Knowledge CRC, have been funded from within the budget of Regional Ministerial Offices, which is held by the Department for Transport and Urban Planning. I am advised that the wording for the Job and Person specification document was developed in consultation with the Department and therefore it can be assumed that the term 'associated hospitality services' is a generic reference to booking meetings etc. In any case this is how the term is being applied.

5. The opening hours for the Office of the Upper Spencer Gulf, Flinders Ranges and Outback are 8.30 am until 5.00 pm.

6. Mr Justin Jarvis is the Manager of Regional Ministerial Offices. In this capacity it is his responsibility to oversee the operations of the two offices and liaise with Ministers and their staff on matters of regional interest.

7. The Manager of Regional Ministerial Offices receives an annual salary of $84,626.78 per annum. Regional Ministerial Offices have one government plated vehicle which is used by staff in accordance with the appropriate guidelines. The Manager makes use of this vehicle from time to time.

INDEPENDENT PRICING ACCESS REGULATOR

In reply to **Hon. D.W. RIDGWAY** (20 July 2004).

The Hon. P. HOLLOWAY: The Minister for Energy has provided the following information:

1. The cost of performing regulatory functions relating to access to the South Australian gas distribution system by the Essential Services Commission of South Australia (ESCOSA) are higher than that of the South Australian Independent Pricing and Access Regulator (SAIPAR) due to two factors. Firstly, the operations of SAIPAR were subsidised by the Department of Primary Industries and Resources, from which SAIPAR drew its pool of staff, office accommodation, and other administrative support such as IT services. In this respect the full cost of delivering the service was not reflected in SAIPAR's expenditures in its Annual Reports.

Secondly, ESCOSA has an expanded role in the newly competitive gas market. For example, ESCOSA is required to undertake ring fencing regulation and monitoring between Envestra's principal contractor (Origin Energy Asset Management) and the incumbent retailer (Origin Energy Retail). SAIPAR did not perform these regulatory functions as they were not necessary prior to the introduction of full retail competition in the gas market, which commenced on 28 July 2004.

2. ESCOSA recovers the cost of performing gas access regulation tasks through licence fees paid by industry participants to ESCOSA. Licence fees are set by the Minister for Energy. The increase in licence fee attributable to the transfer of regulatory functions from SAIPAR to ESCOSA has not had a significant impact on gas prices and was not inconsistent with the Government's stated policy objectives.

GREEN CITY DEVELOPMENT

In reply to **Hon. R.I. LUCAS** (19 July 2004).

The Hon. P. HOLLOWAY: The Minister for Infrastructure has provided the following information:

The Government has agreed to support one of the biggest private sector investments in this city for many years by agreeing to take up 10,000 square metres of office space in what will be Adelaide's first 5 star green and energy rated building.

In explanations given to the media when this decision was first announced, the Government stated that this could amount to a premium of $70 per square metre or $700,000 per annum. This is equivalent to a nominal sum of $7 million. The figure will be less in net present value (NPV) terms. This is based on projections of rates per square metre in two years time in some of the existing 20-year-old building stock currently occupied by Government departments, relative to the rates for new 'A grade' quality accommodation meeting the 5 star green and energy ratings in 2006.

In the interests of transparency, the Government has acknowledged there could be a premium of this order to move to the new accommodation. This is not a premium relative to the market price in 2006 for new office accommodation of the nature proposed on the City Central site. The Government has secured this by its agreement with the developer of the City Central project that no other tenant in the remaining 60 per cent of the first stage building that is to be leased to the private sector can be charged any less than the charge per square metre to the Government.

The figures provided when this project was announced are based on the gross rental in 2006, escalated for each of the years through to 2016 and discounted back to provide a NPV as at the start of the tenancy of a little more than $30 million. This represents the figure to accommodate over 600 public servants in the CBD, exclusive of fitout costs.

The Government entered into this agreement with the support of Cabinet following an open and transparent explanation of the proposal and the lease deal. This was not a matter that could have been legitimately progressed in an open tender process. The aim of this project is to bring about the revitalisation of a major city precinct that will inject jobs, boost private sector investment and confidence in the city as well as provide positive reinforcement of Adelaide's 'green' credentials. If the Government had asked the market to participate in an open tender process to bring about these required outcomes, the process itself would have been seen by the market to have been disingenuous and a 'sham'.

The Government stands by its decision to enter into a commercial transaction with full transparency in its dealings with the developer in order to secure this major private sector investment which has an estimated value of $600M.

TAXATION, PAY-ROLL

In reply to **Hon. IAN GILFILLAN** (25 March 2004).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

1. In relation to stamp duty on conveyances, the provision of tax relief is more likely to benefit the sellers of properties rather than purchasers as stamp duty is capitalised into property prices. It is unlikely that the total cost of purchasing a house would fall if conveyance duty rates were cut.

The economic impact of a conveyance duty cut will depend on the use made of revenue gains by sellers.

In relation to pay-roll tax, although legally a tax on pay-rolls, the final incidence of the tax will depend on whether the cost is passed on (ie to consumers via higher prices for goods and services produced) or is passed back to employees in the form of lower wages.

Economists consider that pay-roll tax is more akin to a tax on consumption (rather than employment) when the final incidence is taken into account. However, analysis of the final incidence is more complicated when export orientated businesses are taken into account.

In practice it is difficult to quantify the relative employment impacts of changes in stamp duty vis a vis changes in pay-roll tax

2. Whether pay-roll tax relief would stimulate employment in small-medium businesses would depend on the form the pay-roll tax relief took and the impact on employer behaviour

A reduction in pay-roll tax costs could be passed on to:

- consumers – in the form of lower prices;
- employees – either through higher wages or increased employment; or
- the employer – through a higher profit margin.

The overall demand for the employer's product will ultimately determine expansion decisions.

One of the advantages of pay-roll tax is that it is a broadly based tax and applies to all employers (subject to the threshold). Taxation distortions are therefore minimised as all employers operate under the same tax rules.

The reduction in the pay-roll tax rate from 5.67 per cent to 5.5 per cent announced by the Government in its recent Budget will benefit an estimated 56 per cent of firms in South Australia employing an estimated 340,000 people.

3. South Australia does not have the highest pay-roll tax rate in the nation. New South Wales, Western Australia, Tasmania, the Northern Territory and the ACT all have a higher pay-roll tax rate.

Each year the Commonwealth Grants Commission (CGC) publishes a tax-by-tax comparison of each jurisdiction's revenue raising effort. This comparison can be used to assess the relative severity of each jurisdiction in relation to specific taxes. In relation to pay-roll tax, South Australia is middle ranked in terms of tax severity, with New South Wales, the ACT and the Northern Territory all assessed higher.

Further detail on pay-roll tax rates and thresholds, by jurisdiction, is provided in the table attached, which also gives details of the CGC's pay-roll tax effort assessments.

Payroll tax rates and thresholds
As at 1 July 2004

Payroll tax rates	Per cent
New South Wales	6.00
Victoria	5.25
Queensland	4.75
Western Australia	6.00
South Australia	5.50
Tasmania	6.10
Australian Capital Territory	6.85
Northern Territory	6.20

Payroll tax thresholds	$
New South Wales	600 000
Victoria	550 000
Queensland [1]	850 000
Western Australia	750 000
South Australia	504 000
Tasmania	1 010 000
Australian Capital Territory	1 250 000
Northern Territory	800 000

[1] In Queensland, the threshold decreases by $1 for each $3 of payroll above $850,000.

No deduction is available for payrolls above $3.4 million.

Payroll tax effort ratios as published by the Commonwealth Grants Commission for 2002-03 [1].

	Effort ratio [2]
New South Wales	107.73
Victoria	97.49
Queensland	84.32
Western Australia	95.73
South Australia	103.31
Tasmania	101.14
Australian Capital Territory	123.68
Northern Territory	110.58

[1] Most recent data published in the 2004 Review.

[2] A ratio above 100 indicates above average effort.

HOME INSPECTIONS

In reply to **Hon. IAN GILFILLAN** (1 July, 2004).

The Hon. P. HOLLOWAY: The Minister for Consumer Affairs has received this advice:

The Hon. Ian Gilfillan asks whether the Minister for Consumer Affairs is concerned about the number of first home buyers and home buyers who are purchasing properties without having them inspected beforehand. He referred in his question to a report in the *Sunday Mail* that suggested that only 15 per cent of buyers have a pre-purchase inspection. The Office of Consumer and Business Affairs (OCBA) is unable to substantiate this statistic. If it is accurate, it is a matter of concern. OCBA encourages consumers to obtain pre-purchase inspections through consumer education activities. OCBA recently put out a booklet titled 'Buying or selling a home", which contains detailed advice for both buyers and sellers of real estate. That booklet recommends that consumers obtain a building-inspection and pest-inspection report. The booklet is available on line at www.ocba.sa.gov.au and by calling OCBA.

It is recognised that property inspections are not cheap, with an average cost of $425 quoted. However, this amount has to be seen in the context of the total purchase price paid for a home and what unforseen repairs might cost if structural problems aren't picked up before sale.

Consideration has been given to the suggestion that a system be established of compulsory inspections for all houses on the market paid for by the vendor and of these reports being available at minimal cost (say, 5 per cent of inspection cost) to those prospective buyers who will purchase one.

OCBA has looked with interest at recent changes to the law in the Australian Capital Territory. The A.C.T. has just introduced a system of compulsory building inspection reports to be provided by the vendor to any prospective purchaser. This was part of a package of measures designed to deal with gazumping in the A.C.T. This problem arose as a result of the way property transactions were structured in the A.C.T. S.A. doesn't have a similar problem because here contracts are signed shortly after offers are made. In S.A. contracts are often made conditional on a satisfactory building inspection report, whereas in the A.C.T. these types of inspections and other searches were being done before the contract was signed, causing delays that allowed other people to gazump the original offer.

A compulsory inspection-report arrangement certainly appears attractive because of the efficiency it would create. One report could be obtained and many potential purchasers would have the benefit, without each spending money to obtain his own report. However, the main concern with the arrangement is the potential for inspection reports to become tailored to vendors' interests because in that case the vendor would be the client. It is also likely that land agents would assume responsibility for arranging the reports on behalf of vendors. There might be an incentive for an inspector to provide a report that enhances the prospects of sale in the hope of further work being directed to the inspector from that agent.

There may be ways to overcome this concern. For example, in the A.C.T. the new legislation provides that an inspector is liable to compensate a buyer if the buyer suffers loss as a result of a false or misleading or negligently prepared inspection report. There are provisions requiring inspectors to be independent and inspectors will be required to hold a minimum amount of professional indemnity insurance. At the time of receiving this advice, it was understood that a suitable policy was still being developed by insurers in the A.C.T. and the insurance requirements had not yet been brought into operation.

The A.C.T. scheme appears to go a considerable way towards ensuring that inspection reports genuinely protect consumers. However, to a certain extent there is still more risk where the vendor obtains the inspection report. If the buyer relies on a misleading report and because of this ends up needing to spend money fixing up structural or other problems, the buyer will need to sue the inspector, or in reality, his insurer, to recover that loss. This in itself is likely to be an expensive exercise and the buyer may have been better off paying for an inspection report in the beginning that was unequivocally prepared in the buyer's interests.

It would be preferable to wait until the A.C.T. legislation has been in operation for a reasonable period to ascertain the effectiveness of it before embarking on similar scheme here in S.A.

Information published in the A.C.T. about the new legislation suggested that there are only about 15 building inspectors in the A.C.T. and that there the average cost of an inspection report is $800 to $1,400. This suggests that the cost of inspection reports is more of a deterrent in that jurisdiction than it is here and that it would be far easier to monitor the conduct and quality of building inspectors than it would be in S.A.

Nevertheless, I agree that there is merit in exploring this proposal. If, after considering the effectiveness of the A.C.T. provisions, and consulting S.A. stakeholders on the proposal, it is decided that it would be in consumers' best interests to adopt the proposal, the Minister will pursue the appropriate amendments. Time permitting,

this could be included in the package of reforms arising from last year's real estate reviews.

SECURITY INDUSTRY

In reply to **Hon. A.L. EVANS** (23 October, 2003).

The Hon. P. HOLLOWAY: The Minister for Consumer Affairs has received this advice:

1. The Office of Consumer and Business Affairs (OCBA) regularly monitors to ensure that security and investigation agents are complying with the law. OCBA works together with the SA Police on visits to premises that employ crowd controllers to ensure compliance with the Security and Investigations Act 1995.

In 2003, OCBA has monitored security agents at events such as Jacob's Creek Tour Down Under, Big Day Out, Glendi Greek Festival, Clipsal 500, Carnevale and the Rugby World Cup. In addition desktop monitoring is undertaken of various publications to ensure that security businesses are appropriately licensed.

OCBA has also taken an educative approach and officers have met operators in the industry to ensure they are aware of their responsibility under the law. This approach has been effective in reducing the number of detected breaches.

Complaints about the security industry are investigated by OCBA, and, where prima facie evidence of a breach is established, sanctions are applied. These can range from warnings for minor offences through to written assurances, prosecutions or disciplinary actions for serious matters.

The Commissioner for Consumer Affairs has taken action against some security and investigation agents and will continue to initiate disciplinary action and prosecutions where appropriate. The court has recently made orders against persons who no longer meet the licence eligibility criteria because they have been convicted of prescribed offences. In those matters the court has made orders ranging from the cancellation of the licence to placing conditions on the licence that restrict the activities of the holder.

2. The Commissioner for Consumer Affairs is currently considering proposals to strengthen the Security and Investigation Agents Act 1995 (the Act) by introducing greater controls for crowd controllers and security guards. New measures include the introduction of an associates test, which may be applied to new applicants and those already licensed. This would allow for the exclusion of a licensee or applicant on the fitness and propriety of those people with whom they associate, and would complement the current offence provisions of the Act that already exclude those convicted of an indictable offence, offences of dishonesty and offences of violence.

The Commissioner for Consumer Affairs has introduced new training requirements for those seeking entry into the security industry, which came into force on 1 July,

2004. The new requirements are more stringent than the current training requirements for licensing and form part of an agreement reached between security industry regulators around Australia.

OCBA is committed to continuing to consult the security industry through its representation on the Police/Private Security Liaison Group, through meetings with individual security industry associations and through the distribution of discussion papers. For example, a discussion paper on the training requirements proposed to come into force on 1 July, 2004, was distributed to the various security industry associations, including the Australian Security Industry Association Ltd. (ASIAL). It should be noted that ASIAL did not respond to this review. The Attorney-General met two representatives of ASIAL in his office in November.

3. In 2002-03, the OCBA collected $1,328,930 in revenue from licensees through the licensing of the security industry. There are 7200 licensed individuals and 259 licensed companies in South Australia.

4. The revenue collected by OCBA is paid to Consolidated Revenue. OCBA's annual budget allocation is used to administer the licensing system for the security industry, maintenance of the public register of licensees and continuing policy development about the appropriate entry standards for the industry. Enforcement is achieved through the operation of a desktop audit program, prosecutions and monitoring disciplinary action in the courts.

SUPERANNUATION FUNDS MANAGEMENT CORPORATION OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 February. Page 893.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their contributions to this bill. I wish to provide some remarks in answer to questions that were raised by the Leader of the Opposition during the debate on this bill. The Auditor-General's office has provided a list of authorities to the council which the Auditor-General is required by law to audit. I table that list.

Information obtained from the Office of the Commissioner for Public Employment has formed the basis of a supplementary list, which is also provided, of those agencies and instrumentalities of the crown that would, in addition to those audited by the Auditor-General, satisfy the proposed definition of 'public authority' under clause 4(5) of the bill. The Superannuation Funds Management Corporation of South Australia (Funds SA) is empowered to invest and manage the funds of the public sector superannuation funds, as defined in section 3 of the Superannuation Funds Management Corporation of South Australia Act 1995. The investment and management of the public sector superannuation funds must be undertaken in accordance with the plan, which sets out the target rate of return on the investment of those funds and the investment strategies for the achievement of that target rate.

In preparing its investment plan for each year, the Funds SA Board of Directors is required to consult with the relevant superannuation board in relation to the proposed investment plan. Funds SA is required, in terms of the existing legislation, to have regard to any comments made by the relevant superannuation board and the minister, and it may change its investment plan if considered necessary as a result of consultation. The final decision in relation to the investment of public sector superannuation funds rests with the Funds SA Board of Directors.

The proposed relationship between Funds SA and approved public authorities would be similar to the Funds SA Public Sector Superannuation relationship but not exactly the same. The bill requires Funds SA to consult with the public authority and have regard to any comment made by the minister or the approved authority in relation to the draft investment management plan. The bill also provides that Funds SA must amend the investing management plan unless the corporation considers, after consulting with the approved authority, that the amendment should not be made.

It should be noted that there is one major difference between the proposed arrangement for a public authority and the existing arrangement for a public sector superannuation fund. Clause 6 of the bill provides that Funds SA will be required to return to the public authority any funds transferred to Funds SA, if the public authority makes such a request; therefore, ultimately, and in the unlikely situation that the public authority does not endorse the investment strategies and management plan determined by Funds SA, the public authority will be able to simply request that its funds be returned. One would expect that, with such a provision, Funds SA will be consulting extensively with the board of the public authority that has made a decision to place its investment funds with Funds SA to ensure that there is agreement between both the bodies in terms of the investment strategies. It is also important to note that there is greater emphasis on

Funds SA being required to actually change an investment plan when requested by public authority under clause 6 of proposed section 20A in the bill than under the existing provisions of the act dealing with the public sector superannuation fund.

The Funds SA board has the ultimate decision making authority in relation to investment decisions after undertaking relevant consultation with stakeholders, because Funds SA has the necessary expertise available on a full-time basis to make these decisions. On the other hand, a public authority established principally for reasons other than the investment of funds may not always have the appropriate investment management expertise, or the greatest efficiency may not be served by the authority maintaining an investment management function in-house. The suggestion that the responsibility for the determination of investment strategies remains with the public authority which wishes to invest its funds through Funds SA would not lead to the efficiencies in the management of public authorities and investments being sought by the government. In the circumstances, the government could not support any proposal that lets the responsibility for the determination of investment strategies with the public authority that wished its funds to be invested through Funds SA. I trust that adequately answers the points raised. I commend the bill to the council.

Bill read a second time.

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

In committee.

(Continued from 7 April. Page 1535.)

Clause 10.

The Hon. P. HOLLOWAY: In answer to some matters that were raised when we last debated this bill last week, I advise the following. I am advised that clause 3 of the National Electricity (South Australia) New Electricity Law Amendment Bill 2005, the application act, confers a power on the South Australian minister to make rules under section 90 of the National Electricity Law (NEL). Section 90 of the NEL allows the South Australian minister to make rules for the operation of the national electricity market. This power is a one-off power, and once it is exercised on the recommendation of the Ministerial Council on Energy it is spent. The rules will replace the current National Electricity Code. The minister has no power to make rules before this legislation passes, or after the power in clause 90 has been exercised once. These rules will be known as the initial rules.

The general and specific regulation-making powers in the application act—that is, sections 9 and 10 respectively—are to enable regulations to be made under that act for the National Electricity Law. The regulations made under the application act will be applied by each participating jurisdiction in the national electricity market. This occurs now under the current National Electricity Law. The regulations will not be used to amend the national electricity rules. There is a rule-making process for the Australian Energy Market Commission set out in part 7 of the National Electricity Law. In order to allow for a smooth transition of all arrangements from the National Electricity Code and the existing National Electricity Law to the new National Electricity Law and the rules, transitional provisions are included in both the regulations and under the new National Electricity Law. The matters that need to be saved and transitioned in the new regime include:

- the making of code changes that are currently in progress under the existing code;
- the continuation of registration of code participants and associated exemptions from registration;
- the continuation of various panels and committees under the code advocacy panel, the dispute resolution adviser, etc.;
- funds operated by NEMMCO;
- actual and pending determinations of the ACCC and jurisdictional regulators under the code;
- continuation of disputes and a general preservation of rule and guidelines; and any rights, privileges, obligations and liabilities under the code.

Without these transitional provisions, all the above would have to be redone and re-agreed, and the national electricity market would be inoperative.

In reply to claims made in relation to statements made by the minister on the role of any federal body to regulate prices and distribution, I am advised that the minister has consistently stated the position that any such body would have to use local officers to undertake this work. This includes the media interview in question.

The Hon. R.I. LUCAS: To pursue the last issue the minister has raised, and to paraphrase him as I understand the minister's answers to the questions I put last week, the Minister for Energy had consistently put a position that, if there was to be an Australian Energy Regulator, there would have to be a local office. I think that is a fair summation of what the minister has just said. He indicated that that is what he said in the exclusive interview with Kevin Naughton in the *Sunday Mail*. I remind members of the committee and the minister that that is not the question I put to the minister representing the Minister for Energy. Mr Kevin Naughton is a respected senior journalist in South Australia and he directly quotes the Minister of Energy as follows:

> The federal and state governments have agreed that distribution and retail pricing will be set by the Australian Energy Regulator, an independent body funded by the Australian Competition and Consumer Commission. The benefit is that you should get uniformity and economies of scale.

This was under the bold headline 'Plug pulled on SA power pricing body'. Kevin Naughton writes:

> For the first time since electricity lit up our houses South Australia will lose price fixing controls. Future electricity prices will be set by a national regulator and not the state based Essential Services Commissioner.

It is important that this committee understands the government's position. That was the reason for the question and we still do not have an answer from the government on this critical issue, that is: has this state government and the Minister for Energy indicated, as he has in this exclusive interview with Kevin Naughton in the *Sunday Mail*, that the power over retail pricing will be handed over to the Australian Energy Regulator?

I am not much interested in the oft-mentioned statements from the minister that, if there is to be an Australian Energy Regulator, we will have a local office, as that is not the question being put to the government and the minister. In particular, were the statements made by the Minister for Energy in the exclusive interview with Mr Kevin Naughton of the *Sunday Mail* an accurate reflection of his and the government's policy? If the position is that the minister has now changed his mind, made a mistake, did not know what

he was saying or made an error, then it is probably better that the minister in this place fesses up on behalf of the Minister for Energy and indicates that he did not know what he was talking about in giving this exclusive interview to Mr Naughton. It is a fundamental issue in relation to the whole area of regulation of the electricity industry, a fundamental issue in relation to whether or not this state government minister has decided that it will hand over its powers to the Australian Energy Regulator. I put the question specifically to the minister again: what is the state government's policy in particular and is the state government claiming that the Minister for Energy was wrong in that quote from the exclusive story with Mr Kevin Naughton?

The Hon. P. HOLLOWAY: In relation to the Kevin Naughton report, my advice is that that article did not quote all of the minister's statement. As to what the minister's views were, I spelt them out last week. I do not think an *Advertiser* or *Sunday Mail* report should be the basis on which we are debating a bill in this chamber. I have clarified the minister's position.

The Hon. R.I. Lucas: No, you haven't.

The Hon. P. HOLLOWAY: Yes, I did last week: I read out the relevant statement. I repeated the statement he made to the house—

The Hon. R.I. Lucas: But that doesn't answer the question. It just says we'll have a local office—that doesn't mean anything.

The Hon. P. HOLLOWAY: I will read it again:

> When this bill was debated in the House of Assembly the Minister for Energy stated that retail and distribution will not be handed to the commonwealth until we are assured that they will continue to be regulated from the local perspective. Particularly in the area of distribution it is a nonsense to suggest that you can regulate a system like that by remote control from the eastern states.

That was the position that I read last week, and it remains the position of the government. It would, I would suggest, be more significant than any article that is published in the media.

The Hon. R.I. LUCAS: Therefore, is the Minister for Energy claiming that Mr Kevin Naughton has misquoted the Minister for Energy in that direct quote? The quote begins:

> The federal and state governments have agreed that distribution and retail pricing will be set by the Australian Energy Regulator, an independent body funded by the Australian Competition and Consumer Commission. He said the benefit is that you should get uniformity and economies of scale.

Given what the minister is now saying is the government's position—that is, it has not taken the decision—is the minister saying that Kevin Naughton has misquoted the Minister for Energy in that specific quote?

The Hon. P. HOLLOWAY: It is not up to me to say. I was not there at the interview and I have no idea what it was. I suggest that it is not really relevant to the discussion of the bill. The bill is before us and I am prepared to say what the government's position is. Some report in a newspaper about it, I suggest, is irrelevant to the bill.

I have already said that it is my advice that that particular quotation did not include all of the minister's statements, but it is not up to me to try to interpret reports in newspapers. I am happy to repeat the quote from the minister which makes it absolutely crystal clear what the view of the government is, that is, that there will be no handover until we are assured that they will continue to be regulated from a local perspective.

The Hon. R.I. LUCAS: If the minister is now claiming that Mr Naughton did not report all of the minister's quotations, can the minister indicate which parts of the minister's quotations were not included by Mr Naughton in that exclusive interview with the *Sunday Mail*?

The Hon. P. HOLLOWAY: This is my last attempt to place this in perspective. My understanding is that there have obviously been discussions at the federal level in relation to this and there is agreement that those controls will go that way if the final detail, and that includes in relation to local input—

The Hon. R.I. LUCAS: You are changing your story now.

The Hon. P. HOLLOWAY: I am not. There is no inconsistency. We all know the way that regulation is moving, and we all know the way the commonwealth wants it. The minister has made it clear that the last step before that can happen is this local component. I do not really see that there is any inconsistency in that at all.

The Hon. R.I. LUCAS: Is the minister now saying that there is an agreement to hand it over, subject to the caveat that the minister is indicating?

The Hon. P. HOLLOWAY: My advice is that there is no agreement, and never has been, on retail pricing.

The Hon. R.I. Lucas: You just said there was.

The Hon. P. HOLLOWAY: No, I did not say there was. I said that we all know the direction in which it is going, and there have been discussions. There is scarcely any secret about that matter. The minister has made it quite clear that, before there can be any change in relation to retail pricing, there has to be that local input. He has made that clear, and that is, and remains, the position at this time.

The Hon. NICK XENOPHON: Following on the line of questioning from the Leader of the Opposition, what is the government's preferred policy position? Is it that it should be done at a local level or that it should be handed over to the national office?

The Hon. P. HOLLOWAY: It is not really a matter of preference. It just comes back to what I said: they will not be had with the commonwealth until we are assured that they will continue to be regulated from a local perspective. We are now part of a national electricity market, and we have been for what must be getting on towards a decade. That is the reality. Whether or not we like it, that is the reality. We are part of that market and we are one state—a relatively small state with 8 per cent of the population—within that market.

We have to do our best—I know the minister does his best—to get the best deal for this state, but at the end of the day (like all other states and the commonwealth) there will inevitably be compromises in relation to all these matters. There are some things on which we will hold out, and that has been indicated in relation to that question. Powers of retail will not be handed to the commonwealth until we are sure that they will continue to be regulated from a local perspective. That is the state government's position.

The Hon. NICK XENOPHON: Given the minister's assurance, can he guarantee that there will not be a handing over to the national office in the absence of a period of public consultation with consumers and other stakeholders? The government has given a pre-condition before these very important powers are handed over to the national office, but at the very least will there be a period of public consultation, or is this something that will be determined without any such consultation when and if this step is taken?

The Hon. P. HOLLOWAY: I am advised that there will be a period of consultation required. In any event, further changes to legislation (beyond this bill) will be required before any powers in terms of both distribution and retail can be transferred. So, this parliament will have another opportunity before that can happen.

The Hon. R.I. LUCAS: Will the minister clarify whether the government has taken a decision, therefore, on the handing over of powers in relation to regulation of the distribution sector of the electricity industry?

The Hon. P. HOLLOWAY: My advice is that in relation to transferring distribution pricing powers, an intergovernmental agreement has been signed. This is subject to agreement on the framework. So, there has been an intergovernmental agreement signed in relation to transferring distribution powers, but it is subject to agreement on the framework. I am advised there is no such agreement in relation to retail.

The Hon. R.I. LUCAS: Given that we are unlikely to conclude the committee stage today, will the minister undertake to provide a copy of the intergovernmental agreement that has been signed by our government on behalf of South Australians in relation to the distribution sector of the electricity industry?

The Hon. P. HOLLOWAY: I am advised that the honourable member already has a copy of that document. It was handed to him when the AEMC—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, the same agreement.

The Hon. A.J. REDFORD: Proposed new section 13 provides:

> The Subordinate Legislation Act 1978 does not apply to rules made under the national electricity law.

Why is that necessary?

The Hon. P. HOLLOWAY: I am advised that under the current situation, under the national rules, they are not subject to disallowance. This clause will simply ensure that the regulations and the rules are not subject to disallowance because they are, of course, national rules agreed by all jurisdictions.

The Hon. A.J. REDFORD: Because they are national rules agreed to by all jurisdictions, is that the reason why there is going to be no parliamentary scrutiny of any of the rules that might be made?

The Hon. P. HOLLOWAY: That is right, because they agreed on them, but, obviously if one had that situation, it could presumably derail the entire process.

The Hon. A.J. REDFORD: Can the minister explain to me what the processes will be that lead to the promulgation of a new rule?

The Hon. P. HOLLOWAY: Perhaps, by way of initial comment, I can say that there are obviously some rules, which we have already discussed in the earlier debate, which have to be transferred over, and there will obviously be new rules. The making of the new rules, I am advised, do have a very transparent process. They are set out in part 7 of the National Electricity Law at page 48, the making of the national electricity rules. So perhaps it would be more appropriate, if there are any specific questions in relation to that process, to ask them when we get to that clause.

The Hon. A.J. REDFORD: With respect to the minister, you are asking the parliament to give up its right to scrutinise regulations. I do not think it is appropriate to pass this and then wait. With respect to the minister, I would like to know what scrutiny mechanisms there are, in the absence of the scrutiny mechanisms that apply to every other single regulation made in this state. I do not think it is appropriate to wait until we get to that particular clause. This indeed might well be considered to be a test in relation to the subsequent provisions. So, what I am interested to know is: what is the process and what levels of scrutiny will apply in relation to the making of rules, given that parliament, if it passes this, will give up its right to scrutinise these rules?

The Hon. P. HOLLOWAY: Which clause are we on, Mr Chairman?

The CHAIRMAN: In clause 10 there is a section 13, making of rules, subordinate legislation.

The Hon. P. HOLLOWAY: The detail of this is in clause 12, I think, the schedule to the bill. I am suggesting that that schedule, part 7 and clause 87 of the National Electricity Law, which is part of clause 12, is probably a more appropriate provision to debate it but, if the honourable member specifically wants to go through it now, we can do so. Just to try to stop us jumping all over the place, I thought it would be better to do it in some semblance of order.

The Hon. A.J. Redford: This is the right time to do it.

The Hon. P. HOLLOWAY: Clause 12 would be more appropriate. We are still on clause 10, as far as I am aware. I refer to page 48, part 7, which is the process initiation. I will go through it again. New section 13 of clause 10 of this bill is there because rules replace the code. Under the new National Electricity Law, the rules will replace what was formerly the code. Regulations include rules as well, and the technical legal reason why this clause needs to be in the bill is because all states have agreed to the process, and you cannot have one state disallowing rules that have been made nationally. I think the question the honourable member was getting at was what are the procedures to amend these rules. We have already discussed at some length the process that would have to be gone through in relation to establishing the rules or transitioning the code into the new rules.

However, in relation to amending the rules (which I think is the more important thing, and which is what I assume the honourable member is getting at), that is set out in part 7 of the National Electricity Law, which is a schedule to this bill (which begins at page 48). The relevant clauses are clauses 91 to 102 of part 7 of the National Electricity Law. They really set out in detail the operation from clause 91, which is the initiation of making a rule, through to the initial consideration of request for rule and notice of proposed rule, which is clause 95. There is non-controversial and urgent rules, clause 96; clause 98, which provides that the AEMC may hold public hearings before draft rule determination; and draft rule determination, clause 99

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: If one reads clause 98, one will see that it provides:

> (1) The AEMC may (but need not), at any time after publication of a notice under section 95 and before making a draft rule determination, hold a hearing in relation to any proposed rule.
>
> (2) Notice of a hearing held under this section must—
>
> (a) be published; and
>
> (b) contain the information prescribed by regulations (if any).

Clause 99 provides:

> (1) Before making a final rule determination, but within eight weeks after the date specified in a notice under section 95, the AEMC must publish—
>
> (a) a draft rule determination in relation to the proposed rule; and
>
> (b) notice of the draft rule determination.

Subclause (2) states what that draft rule must contain. Subclause (3) states that the draft of the rule to be made need not be the same as the draft of the proposed rule to which the notice under section 95 relates. Subclause (4) provides:

> (4) A notice of the draft rule determination must—
>
> (a) invite written submissions and comments from any person or body in relation to the determination within a period specified by the AEMC, being a period not less than six weeks from the date of publication of the notice; and
>
> (b) include a statement to the effect that any interested person or body may request, in writing within one week after the publication of the notice, the AEMC to hold a hearing in accordance with section 101; and
>
> (c) contain any other information prescribed by the regulations.

Then there is clause 100, which is the right to make written submissions and comments in relation to draft determination; clause 101, which provides that a pre-final rule determination hearing may be held; clause 102, which is final rule determination as to whether to make a rule; and clause 103, which is the making of the rule. So, quite detailed procedures are set out within the National Electricity Law within clauses from 91 to 103, or thereabouts, which describe the process for making new rules.

The Hon. A.J. REDFORD: The whole process is in the hands of the AEMC and, as I understand it, there is a process that requires the AEMC to consult, some of which is mandatory and some which is not. What would be the position if the state government did not like a rule made by the AEMC? What rights does it have?

The Hon. P. HOLLOWAY: My advice is that the whole process through the AEMC is an independent statutory one that is set out under these rules.

The Hon. A.J. REDFORD: So, if I issued a press release this afternoon stating that the government is giving up any rights associated with the control of prices in relation to electricity with the passage of this bill, would I be correct?

The Hon. P. HOLLOWAY: My advice is that this bill deals only with transmission: it does not deal with distribution or retail. I think we have already covered that point: this is about transmission.

The Hon. A.J. REDFORD: You have to be forensic in this place, Mr Deputy Chair. In the context of transmission, am I correct in understanding that, if we pass this legislation, the state government gives up any right to control any of the pricing mechanisms associated with electricity? It is the same question: I am just confining it to transmission.

The Hon. P. HOLLOWAY: My advice is no, in the sense that the government does not have any powers at present in relation to transmission pricing. I understand that there was an electricity pricing order some years back, but that has long since expired in its effect. The EPO has long since expired in relation to transmission; here, in this bill, we are talking just about transmission issues.

The Hon. A.J. REDFORD: So that I completely understand what we are doing here, we are giving up any rights, as a parliament, to supervise any rule-making power. We are transferring to a group of people, namely the AEMC—none of whom I have ever met, had any dealings with or have any knowledge of, and who apparently do not even exist yet—complete control in relation to pricing and other issues associated with the transmission of electricity. They have the consultation process set out in this bill, which they may or may not comply with, if I read proposed clause 98, and that is the government's policy in relation to this. That is what the government proposes to do when it seeks to implement the statement on Mike Rann's 'My pledge to you' card issued prior to the election where he stated, 'We will fix our electricity system, and an interconnector to New South Wales will be built to bring in cheap power'.

The Hon. P. HOLLOWAY: The only problem with the honourable member's thesis is that all this bill does is transfer powers that currently exist from the ACCC to the AER and from NECA to the AEMC, so it is just not correct to say that we are giving away those powers. Those powers, effectively, do not exist.

The Hon. A.J. REDFORD: This bill and this clause implement your policy. That is what I am asking.

The Hon. P. HOLLOWAY: One piece of legislation that is agreed to at a national level does not represent the government's policy on energy. It is one part of it. It is one of a number of changes. It is one of a series of administrative and legislative actions that this government is taking, and they all flow on from decisions that were made in the past.

The Hon. R.I. Lucas: This is Mr Conlon's big bang policy.

The Hon. P. HOLLOWAY: They all flow on. We know what the opposition's big bang policy was, and that is what we have been dealing with ever since in terms of us moving into the NEM in the first place, plus the privatisation of electricity. These are the issues which—

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order!

The Hon. P. HOLLOWAY: This is the brave new world of electricity that we now live in. As I said, this government's actions in relation to it comprises a number of administrative and legislative acts of which this is one. Of course, we have to work, as I said earlier, in conjunction with the commonwealth and other state governments. We now have a national market, for better or worse, and we have to work within that market and do what we can within the constraints of that market as any future government would have to do. That is the new reality.

The Hon. SANDRA KANCK: I simply want to put on record so that it exists in *Hansard* that the Democrats have previously tried to amend some of this template legislation that we have had coming through for a number of years so that we could maintain the power of regulations and have the power to disallow them. However, we have not been successful, at any time, in getting either government or opposition support for us to maintain any semblance of control over it. I would love to see the Liberals introduce an amendment to that effect and, if they did so, I would very happily support it and, of course, they would have the numbers if they chose to go down that path.

The Hon. P. HOLLOWAY: What is the Hon. Sandra Kanck suggesting? Where exactly is she suggesting we go on this? For better or worse, the electricity industry in the state was privatised some years ago and we are now in an electricity market. We can keep having those debates over again or else we can move on and deal with the situation as it exists at the moment. That is what this government is trying to do. We could waste all afternoon rerunning those debates, but I do not really think that anything is going to be achieved by it.

We have now, and we have had for some years, an electricity market that has been privatised, and it is part of a national system. We have to try to make that work within the constraints we have. As one small state with about 8 per cent

of this country's population, we have to make the system work and we have to work within the rules and try to get the best rules we can that enable us to do that. If the Hon. Sandra Kanck wants us to pull outside that system and go it alone, perhaps she ought to think through what the consequences of that might be, because I would suggest that, if you think it through, it is not particularly satisfactory for this state.

The Hon. R.I. LUCAS: If I can just return to the specific regulation making power provisions under clause 10(1) which says 'without limiting the generality of section 11' which, of course, refers to the general regulation making powers for the National Electricity Law. I note in that the Governor may make such regulations as are contemplated. I want to confirm that, in essence, it is the South Australian Governor that we are talking about.

The Hon. P. HOLLOWAY: My advice is yes.

The Hon. R.I. LUCAS: The provisions we are talking about under clause 10 specifically relate to the general provisions of clause 9. Under clause 9, which amends section 11 of the general regulation making power of the National Electricity Law, subclause (3) provides:

> Regulations under this Part may be made only on the unanimous recommendation of the Ministers of the participating jurisdictions.

Can the minister clarify that? As the minister has outlined, in relation to the questions from my colleague the Hon. Mr Redford, when we are talking about amending the rules, the AEMC will be the body, and individual ministers and, indeed, the MCE will not have a role in terms of vetoing further amendments to the rules. However, in relation to regulations under clause 9 and clause 10, can I confirm that they are both to be done on the unanimous recommendations of ministers in the participating jurisdictions? I know it refers to that under clause 9, but I am not sure that it does under clause 10.

The Hon. P. HOLLOWAY: Just while we are checking that point, I need to put on the record that the Ministerial Council on Energy or any person can propose a rule change. I think that the leader, in his comments earlier, was suggesting the ministerial council had no role in relation to rule changes. It is important to note that the MCE or any person can propose a rule change. So, there is that capacity in there. My advice is that under subclause (3) (which we are changing to clause 11), regulations can only be made with unanimous recommendation. I am advised that that applies to clauses 11 and 12.

The Hon. R.I. Lucas: Section 11 and section 12?

The Hon. P. HOLLOWAY: My advice is that it applies to sections 12 and 13. I am advised by parliamentary counsel that the requirement for unanimous recommendations of the ministers applies to regulations. Of course, that is not the case in relation to rules. That is excluded under clause 10 of the bill. In relation to regulations generally, yes, they can only be made on the unanimous recommendation of the minister; rules are different.

The Hon. R.I. LUCAS: In order to assist members of the committee, in answering questions put by the Hon. Mr Redford earlier, the minister referred to the rules and the issues in relation to the transmission sector and, in particular, pricing. If the rules are replacing the code (which is my understanding), the National Electricity Code clearly covered a range of other issues as well. The bidding and the rebidding practices of generators is an issue which I understand was controlled through provisions of the National Electricity Code, if I can give that as an example of potentially some of the things which might be covered by the rules, as well as issues in relation to the transmission sector. Will the minister confirm that that is indeed the case?

The Hon. P. HOLLOWAY: The Leader of the Opposition is talking about bidding.

The Hon. R.I. LUCAS: My understanding is that the National Electricity Code, which will now become the National Electricity Rules, for example, covered things such as bidding and rebidding rules of generators in the market. Will the minister confirm whether or not that, in fact, is correct; that is, that the rules will pick up that section of market behaviour as well?

The Hon. P. HOLLOWAY: My advice is that, yes, it will pick up those sections.

The Hon. R.I. LUCAS: I want to highlight the fact that there are a range of provisions that the rules will cover, in addition to the issues as they relate to the transmission sector, because bidding and rebidding, of course, governs the behaviour of generators within the national electricity market. Given that the rules will cover the breadth of activity in relation to that, as well as other issues, will the minister outline what it is that the regulations will cover, given that the rules will cover those sorts of issues?

We have been advised, through answers to questions, that the AEMC, in essence, in the end will be the sole determinant of rule changes once the initial rules have been established. Can the minister indicate examples, rather than all, of the sorts of issues that are contemplated being changed in relation to both the general regulation-making power for the National Electricity Law and/or the specific regulation-making power? What are the sorts of issues that might be covered by these provisions?

The Hon. P. HOLLOWAY: My advice is that at the moment a draft set of regulations is, in fact, out for consultation. The draft set of regulations is available on the web site. We can certainly provide the leader with a copy of this list, if he so wishes. The contents cover such things as civil penalty provisions; transition and savings provisions; continuation of advocacy panel; continuation of interregional planning committee; continuation of settlement residue committee; continuation of dispute resolution adviser; pool of persons for dispute resolution panels; metering providers; and registered participation of agents. It goes on to list deregulations; participant compensation fund; and rule funds. As I have said, I understand they are available on the web site. The best way to answer the honourable member's question is to provide him with a copy. If anyone wishes to find out about the regulations, they are available on the web site.

The Hon. R.I. LUCAS: I thank the minister for that; I would appreciate a copy of at least the content section of the draft regulations. Can the minister advise whether there is a simple explanation of the dividing line between what is meant to be covered by the regulations under the National Electricity Law and what is covered under the rules under the National Electricity Law? Is there a simple explanation that officers work within in terms of deciding what is done under the regulation-making provision and what is done under the rule-making provision? I accept that it may not be possible for the minister to answer this question.

The Hon. P. HOLLOWAY: The simplest explanation I can provide is that what was previously the code has now become the rules. So, what we called the code in the past is now in the rules; whereas, in relation to regulations, more regulations are proposed, as I indicated with that brief number

of examples. So, basically, there will be more regulations. To answer the question as simply as I can: basically, the dividing line between the regulations and rules is that the old parts that were formerly the code are now regarded as the rules.

The Hon. R.I. LUCAS: I will put a specific question to the minister. For example, if jurisdictions wanted to amend the regulations under the National Electricity Law to specifically provide guidelines in relation to bidding and rebidding behaviour for generators in the national electricity market, would ministers, if they agreed, be able to do that, as opposed to having to go through the rule-making provisions, which are governed by the AEMC?

The Hon. P. HOLLOWAY: My advice is that it is the rules that form the code that have penalty provisions in them. With the regulations covering just miscellaneous matters, penalties do not apply to the regulations, so clearly if one is talking about the sort of behaviour the honourable member is talking about they would need to be part of the rules if they were formally in the code because that is where the penalty provisions apply.

The Hon. R.I. LUCAS: Is the minister's advice therefore that regulations under the National Electricity Law do not include penalty provisions because there is no penalty provision in the National Electricity Law?

The Hon. P. HOLLOWAY: The advice of parliamentary counsel is that that is the case.

The Hon. R.I. LUCAS: I take it from the answer that there are, when one goes through the old national electricity code or the new rules, a number of provisions covered by the rules that do not include penalty provisions. When one looks at the general regulation making power for the National Electricity Law which says 'the government may make such regulations as are contemplated by or necessary or expedient for the purposes of the National Electricity Law' (which is a broad regulation making power—no criticism there as it is a fairly standard provision), would the minister agree that, with the caveat that as long as it does not include penalty provisions, such as the example I gave of bidding and rebidding behaviour, ministers with unanimous agreement could go down the path of regulation provisions for issues that are currently covered by the National Electricity Code and are contemplated to be covered by the national electricity rules?

The Hon. P. HOLLOWAY: My advice from parliamentary counsel is that in theory you could contemplate such regulations, but the difficulty would be that because both rules and regulations are subordinate instruments it would create problems in relation to knowing which took priority. Clearly the spirit intended behind this legislation is that it is the former code that governs the sorts of behaviour that are becoming rules under the National Electricity Law, and that is where such behaviour would normally be governed by the rules. It is a theoretical issue: it may be that you could get such regulations.

The Hon. R.I. LUCAS: My experience is that, with this industry, looking at theoretical issues sometimes is advisable in the early stages. In the discussions I have had with industry lawyers (or lawyers more expert in the law as it relates to this industry than am I), this notion and these questions are being actively considered during these debates, that is, that it is potentially possible if the AEMC was to approve a particular rule change that was unanimously opposed by all jurisdictions. The jurisdictions have the power, as the minister's advisers have indicated is theoretically possible (the industry lawyers I have spoken to do not say 'theoretically' but that the law allows it as it is currently structured), for the ministers to initiate a regulation, which may well be contrary to the provisions of the AEMC approved change to the national electricity rule. Without going through all the details, my question is: in the event that the ministers unanimously went down a regulation change process that was inconsistent with the national electricity rule, what is the minister's legal advice as to which provision would apply, that is, the rule that has been recommended by the AEMC or the regulation that has been unanimously approved by the ministers and the Governor of South Australia?

The Hon. P. HOLLOWAY: I will seek advice, but I suspect that, if it gets to that, probably the NEL is in a lot of trouble. I will see whether I can get some more technical advice. There is no doubt that if we got to that situation the NEL would be in trouble. The only light I can throw on it is a quick legal analysis. I note that under schedule 1 of the act of parliament it contains subject matter for the national electricity rules. Presumably one could construct an argument that, if you had regulations that contradicted the subject matter for the national electricity rules, given that schedule 1 is in the act, that might mean that the rules prevail because they were consistent with the intentions of the act. That is a bit of legal interpretation on the run.

The Hon. A.J. Redford: Did a lawyer tell you that or did you do that by yourself?

The Hon. P. HOLLOWAY: No; I had some advice. The more relevant answer would be that if we got to the stage of regulations contradicting rules—

The Hon. A.J. Redford: You don't know the answer.

The Hon. P. HOLLOWAY: No, and I suspect that neither does the Hon. Angus Redford. Ultimately you would have to go to court. I am providing perhaps what might well be the most plausible line of legal argument at this stage. One might say that because regulations would be imposed later than the rules (which would probably be the case) that they might therefore have an impact. I am sure you could get credible legal arguments either way but, if you got to that stage, the NEL would be in trouble and one suspects the ministers would find some other way of dealing with it.

The Hon. R.I. LUCAS: I will not pursue it any further, other than to say I gather from what the minister has said that the legal framework that I have outlined is, to use the minister's earlier phrase, theoretically possible. As I have said, certainly from the discussions I have had, the legal advice available to me was that the scenario that I have set out is possible. Of course, it is possible that ministers may use that as an implied threat—although I am sure that ministers would not acknowledge that. If the AEMC was to go too far out on a limb in relation to a particular rule change, ministers do have that particular power, almost a reserve power, under the regulations should they unanimously agree—and I concede that unanimous agreement is not always the easiest thing to achieve in the national electricity market.

The minister in answering that question referred me to schedule 1 of the legislation, which is 'Subject matter for the national electricity rules', and we will obviously get a chance to go through that in detail later. But, apropos of what we were discussing earlier, I note that under clauses 25 and 26 of that schedule there is specific reference to distribution system revenue and pricing. Can I clarify with the minister that schedule 1, subject matter provisions, which refer to distribution system revenue and pricing, does not indicate decisions that have been taken by governments to hand over powers, and I assume that it just refers to potential subject

matters for rules in the future, or does it already refer to existing provisions within the rules? I must admit, I do not have a copy of the rules with me.

The Hon. P. HOLLOWAY: My advice is that these provisions are already in the code: it is just that they are regulated, in the case of South Australia, by ESCOSA. The provisions are in the code already. If we are going to move on, these are all in clause 12. Do we have any more questions on clause 10?

Clause passed.

Clause 11 passed.

Clause 12.

The Hon. R.I. LUCAS: My first questions relate to the definition of 'jurisdictional derogation'. The bill states:

> jurisdictional derogation means a rule made at the request of a minister of a participating jurisdiction that—
> (a) exempts, in a specific case or class of cases, a person or a body performing or exercising a function or power, or conferred a right, or on whom an obligation is imposed, under the rules (including a registered participant), or a class of such a person or body, or NEMMCO, from complying with a provision, or a part of a provision, of the rules in the participating jurisdiction to which the derogation relates.

First, can the minister explain exactly how that process would operate? Is this section, and others later on, indicating that it is simply a matter of a particular minister, in the state of South Australia, for example, making a request? It means 'a rule made at the request of a minister of a participating jurisdiction that' does all the things that are outlined in paragraph (a). If I can explain in a bit of a convoluted fashion, I suppose, the rule-making process we have just discussed is basically the AEMC making a decision and, as I understand it, anybody, including a minister, can propose a rule change. I want to know the difference between, let us say, the South Australian minister proposing a rule change and the AEMC agreeing, disagreeing or coming up with something different, and this jurisdictional derogation, which is a rule made at the request of a minister of a participating jurisdiction that, in essence, brings in some exemptions.

The Hon. P. HOLLOWAY: I think the answer to the honourable member's question is contained on page 51 under division 3, clause 91(3), as follows:

> A minister of a participating jurisdiction, after consulting with the ministers of the other participating jurisdictions, may request the AEMC to make a jurisdictional derogation in respect of the jurisdiction of which he or she is a minister.

So the operational part is on page 51.

The Hon. R.I. LUCAS: I thank the minister for that. The reference in clause 91(3) says that a minister, after consulting with ministers, may request the AEMC to make a jurisdictional derogation. Can I clarify that this, in essence, is no different to the minister proposing a rule change, for example? That is, the minister in South Australia, for example, would consult the other ministers: he does not have to get their agreement. He could consult the other ministers. All the other ministers could disagree with the South Australian minister but, nevertheless, the South Australian minister could request the AEMC to make a jurisdictional derogation in respect of the jurisdiction of which he or she is a minister, and the AEMC would treat this in exactly the same way as the rule-change provisions of the legislation—that is, the AEMC could reject completely the request from the minister for a jurisdictional derogation, or could agree, or could do it in a different fashion.

The Hon. P. HOLLOWAY: If I understood the question correctly, I think the answer is that, after having consulted, but not necessarily getting the agreement of, the other ministers, the AEMC, being requested by the minister, would go through the usual processes. But we need to look at clause 89 on page 49, 'AEMC must have regard to certain matters in relation to the making of jurisdictional derogations'. So, clause 89 applies to that. In other words, the process is the same, but the test is different.

The Hon. R.I. LUCAS: What is the test for jurisdictional derogations as opposed to the rule?

The Hon. P. HOLLOWAY: Perhaps it would be more correct to say that the AEMC must take into account different things than it might in regard to a rule change reached in another way. Clause 89 provides that in making a jurisdictional derogation the AEMC must have regard to what is provided in paragraphs (a), (b) and (c). These are different requirements upon the AEMC in dealing with a request for a rule that would apply to other cases which presumably would be covered by clause 88, which relates to the more general rule. Clause 89 imposes these additional conditions on the AEMC to which it must have regard.

The Hon. R.I. LUCAS: I take it that the minister agrees that, whilst the AEMC must take into account these different issues in relation to jurisdictional derogations, ultimately the AEMC makes the decision. The minister can request it after consulting with other ministers, and the AEMC must consider it and take into account these issues highlighted in clause 89 but, in the end, the AEMC still retains the final right to say no, we do not agree with your request for this particular jurisdictional derogation.

The Hon. P. HOLLOWAY: I believe that is the case. It is similar to what happens presently with the ACCC and NECA where jurisdictional derogations apparently apply under the present law. Those jurisdictional derogations are subject to the ACCC or NECA, as the case may be. Under the new rules, it will just be the AEMC that is involved.

The Hon. R.I. LUCAS: Is the south Australian government in a position to indicate whether or not jurisdictional derogations exist for South Australia at the moment, and does it have any intention to seek further jurisdictional derogations once this legislation is passed?

The Hon. P. HOLLOWAY: Jurisdictional derogations do exist, and it is proposed that they be transferred over into the new electricity law rules.

The Hon. R.I. LUCAS: Will the minister bring back to the committee an indication of the existing jurisdictional derogations which currently exist which will be transferred under these arrangements? Given that they are going to be transferred, does the government currently have in mind seeking any further jurisdictional derogations as they relate to the electricity industry?

The Hon. P. HOLLOWAY: I will get that information. At this stage, the government does not have any plans to seek jurisdictional derogations other than those which currently exist. To clarify that, I believe there is a proposal currently before the ACCC. As I said, there are no plans for any new jurisdictional derogations at this stage other than the one that is currently before the ACCC.

The Hon. NICK XENOPHON: In relation to the jurisdictional derogations referred to, is it anticipated that there will be any process of consultation on those, or will there be a threshold, so that some jurisdictional derogations will be referred for public consultation and others will not? If that is the case, what is that threshold?

The Hon. P. HOLLOWAY: The processes for the jurisdictional derogations are the same as for the making of

rules. As I have indicated, clauses 91 to 103, or thereabouts, set out the quite involved processes for making new rules. My advice is that they apply to transitional derogations as well.

Progress reported; committee to sit again.

MOTOR VEHICLES (LICENCES AND LEARNER'S PERMITS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 1341.)

The Hon. T.J. STEPHENS: I rise to indicate the Liberty Party's support for the bill. In doing so, I indicate that, in my view, the majority of young drivers do the right thing and are generally pretty reasonable drivers. Of course, there are some hoons and there are instances of driving under the influence of alcohol and drugs, which must be addressed, but that happens in all age groups. So I do not think it is necessarily fair to single out teenage drivers.

Members would be aware that the statistics on death and serious injury rates are not commensurate with the proportion of the population they make up. Seven per cent of the population is aged between 16 and 20, yet 15 per cent of all driver deaths on the roads come from this age group, and a further 19 per cent of all serious injuries also come from this age group. This bill will seek to address the lack of experience which is evident in new drivers. The learner's phase will now have a minimum of 50 hours supervised, 10 of which must be done at night. The provisional phase will now be split into two sections. The first section will require the passing of a hazard perception test and, if the driver is demerit-point free or has undertaken a driver-awareness course, the time for progression will be 12 months to the second phase. There will also be a curfew for drivers who commit serious offences. This, of course, is in addition to the existing limitations already in place for learner and provisional licence holders.

I do not intend to spend a lot of time speaking on this bill, as we agree with the government and there are other bills we need to consider. However, I will make a few points. First, there is some evidence to suggest that it is not new drivers who pose the risk on roads, relatively speaking. In fact, it is the drivers who have had a few years' experience and become somewhat overconfident on the roads. Perhaps they can afford bigger and faster cars, and they sometimes get themselves into trouble. The legislation addresses that to an extent, by drawing out the process, and also by limiting the speeds and alcohol levels allowed by new drivers for longer so that they become more accustomed to road conditions.

Additionally, the fact that there is now a dedicated night-time driving component in the L-plate stage greatly enhances the program. Currently, there is no requirement for night-driving testing at any stage, and this is a great flaw in the current program. It is a difficult skill for young people to master in some cases, particularly in rural areas where the roads are not as good and the lighting is very poor. I am advised that these changes will not have any impact in terms of punishment for 80 per cent of applicants. I am further advised that the supervised driving does mean that it has to be done by an accredited instructor, which would be a considerable financial impost on parents or the people looking to gain their licence. I suspect, however, that most parents will want to use these instructors anyway, just to avoid damage to their own cars, if not their mental health. Instructing teenagers on how to drive can sometimes be an extremely stressful experience, and I can speak from experience in that area.

I wish to make one final point, which is perhaps related to the wider issue of road safety. It is absolutely critical that this government increases its spending on road maintenance, especially in rural areas. Some of the roads in this state are in a diabolical condition. It is not just a matter of repairing old roads. It also goes into planning the roads to minimise the risk of accidents and to ensure that the flow of traffic is able to move, without having constant stops and starts and the like. For instance, I am advised that the resurfacing taking place on North Terrace is, in a small way, flawed. The lines painted on the surface are not straight and, in some cases, lead to the correct places. This is not the fault of the painting contractors because this is where they were told to place the lines. This planning means that the traffic has to swerve to stay in the lanes.

The Hon. Nick Xenophon interjecting:

The Hon. T.J. STEPHENS: It is not such a big swerve that it is obvious, and if you are not absolutely concentrating you may well clip a car in a slip lane. The Hon. Nick Xenophon interjects and says, 'Who was the genius responsible?' I understand that this bill is supported by all the peak bodies, and I also indicate that it is merely one step in the process of ensuring that our roads are safer. I indicate the opposition's support for the bill.

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

ACTS INTERPRETATION (GENDER BALANCE) AMENDMENT BILL

In Committee.

Clause 1.

The Hon. CAROLINE SCHAEFER: The Liberal Party has indicated support for the bill and the Hon. David Ridgway, on behalf of our party, made his second reading speech some time ago. Only last week I received a fax from the Local Government Association expressing some concerns in respect of the bill. I will read out that letter so that the minister can address the concerns of the Local Government Association before we pass this bill. I realise that that is a bit unfair to the minister, because we had intended to pass the bill today, but I think it is important enough that the letter should go on the record and be considered by the minister. The letter, as I say, was faxed to me on 4 April, and it says:

> I refer to the above bill which I understand is scheduled to be debated in the Legislative Council during the April session. The LGA State Executive Committee considered this bill at its meeting on 16 December 2004—

as an aside, I indicate that the letter was received after the bill passed the House of Assembly—

> The proposed amendments to section 36A of the Acts Interpretation Act 1915 intended to provide for gender balance in the nomination process of persons for appointment to statutory bodies has implications for the current LGA policy in terms of the process for determining LGA representatives on outside bodies. The proposed amendments effectively move away from the LGA approach adopted as the LGA policy by the State Executive Committee at its meeting on 26 November 1998 and reaffirmed at the state executive committee meeting on 21 March 2002, which is that selection for representation on outside bodies is to be based on merit.
>
> A decision based on merit means the person or persons considered by the LGA to be the most suited to the role in terms of skills, knowledge and experience, without being compromised by

restrictions based on council member-officer, age, gender, religion or any other factor.

The effect of the bill will also be to prevent the LGA from continuing to nominate whom they consider to be the best person for the role instead of nominating a panel of persons. The longstanding LGA practice is to only nominate a panel where this is specifically required by the relevant act. The LGA recognises the philosophy behind the introduction of these changes, and acknowledges that a gender-balanced practice was recently endorsed by the LGA's State Executive Committee when determining membership for the board members of its independent inquiry into the financial sustainability of local government.

However, as the introduction of the amendments will cause practical difficulties to the LGA in terms of the process for determining LGA representatives on outside bodies, we seek the ability to continue to nominate such representatives on a merit basis, whilst at the same time looking to achieve gender balance in the appointment process.

My understanding is that there is a degree of voluntary agreement to this process, and that gender balance is to be sought where practical, and I think that probably then does accommodate the wishes of the LGA but, as I say, I think it is an important enough body, and it is an important enough letter, that it needs to be considered before we further progress the bill.

The Hon. CARMEL ZOLLO: I thank the honourable member for her comment. I believe that possibly all upper house members had that letter faxed to them. The minister has spoken with the Local Government Association since that letter was received—I believe to Wendy Campagna in her capacity as executive officer. I think that is the case. She has explained the existence of the Premier's women's directory as a source of names for highly qualified women, and the honourable member is correct in saying that it certainly is not a compulsory choice; that balance is not compulsory. Gender balance does, obviously, have to be practical as well in terms of the names that are presented for government boards and committees.

Also, as I said, minister Key spoke to Wendy Campagna and assured her that merit would still be considered. Never at any stage did we say that merit would not be the prime consideration. Ms Campagna expressed the view that the LGA would be comfortable with this, provided it was able to nominate people on the basis of merit, given that there were no sanctions in the act. I believe the honourable member's concerns have been addressed at this time.

The Hon. SANDRA KANCK: Of course, if merit is the consideration, in no time at all women will dominate boards across this state. I want to verify my interpretation of what the minister has just said—that if, for instance, local government puts up three names for a committee and they are all male, no punitive action will be taken against the Local Government Association.

The Hon. CARMEL ZOLLO: The member's understanding is correct. As I said, we encourage them to undertake that search because the Premier's women's directory has an excellent source of women's names for them to look at.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

PARLIAMENTARY COMMITTEES (PUBLIC WORKS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 April. Page 1539.)

The Hon. SANDRA KANCK: While the Democrats welcome the inclusion of IT projects in the definitions of what will be required for scrutiny and also the inclusion of public private partnerships in this bill, we have concerns about some aspects of it. At present, proposed public works with a value of $4 million or more are investigated by parliament's Public Works Committee. This bill alters that so that only those worth $10 million or more will be referred. This has come as a recommendation from the Economic Development Board.

The figure of $4 million was set back in 1994. So, if that had been indexed, it would now be $5.24 million. But the government is raising the bar significantly, almost doubling what would have been the indexed figure. I make the point that the Economic Development Board does not, and should not, run this state. Although it may make recommendations to government, there is no reason why we have to bend over backwards to do what it recommends.

I was told at my briefing on this bill that passing it would be a signal that South Australia is open for business. Well, it has not been closed. I think that to take anything that might in any way be seen as a shortcut will be counterproductive for South Australia in the long term, because it really is a matter of accountability. In my briefing I was told that 75 per cent of projects are delayed by one to 12 weeks. For some reason or other, that seems to be the basis for an argument that this makes South Australia non-competitive.

I mention Vietnam as an example of where business is prepared to wait. When I was last there I visited a BHP project for a coal washing plant on the shores of Halong Bay at Haiphong. That project was going ahead—it was being built at that time—but when I met with the site manager he expressed frustration that, although the government had given approval for the coal washing plant to go ahead, it took 2½ years for a decision to be made about where it would be located. Despite the fact that it took that long, BHP was quite prepared to sit and wait. So, I do not think that a wait of maybe one to 12 weeks will stop business from being interested in South Australia.

Again, I refer to what I was told at my briefing, and that is that the Public Works Committee will have the right (and, in fact, it does at the moment) to call in any project below the stipulated value. But the question that I would ask is: will it? The government of the day has the numbers on the Public Works Committee and I suspect that, generally, they will be there to do their master's bidding. If we raise the bar to $10 million, I doubt that the committee would call in projects below that value.

I note that, in his second reading contribution, the Hon. Mr Lawson suggested that his party would be moving an amendment to bring the bar back down from $10 million to $5 million, and that is welcome news for the Democrats. We support the second reading, but we look forward to the committee stage to ensure that the bill leaves this chamber in a form where government accountability has not been able to be reduced in any way.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

OATHS (ABOLITION OF PROCLAIMED MANAGERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 1513.)

The Hon. IAN GILFILLAN: My intention is to make some comments about this bill and indicate the Democrats' support for the second reading. In introducing the bill, the minister indicated that it is intended to accompany the Justices of the Peace Bill 2004. At this stage, that bill is still before the other place. Notwithstanding that, I indicate that the Democrats will be supporting the second reading of the amendment to the Oaths Act 1936, which is currently before us. I am grateful for the Hon. Robert Lawson's contribution to the second reading debate. I must say that was much more informative than the government's contribution. Perhaps the minister can expand the government's arguments for this bill in his summing up.

The bill removes provisions in the Oaths Act 1936 that allow the government to appoint the manager of a bank as a 'proclaimed manager'. Proclaimed managers are currently authorised under the act to act as justices of the peace with respect to, firstly, the making of a declaration before a justice and, secondly, any instrument that is required to be signed or executed in the presence of a justice. This was initially intended to assist regional communities where there is limited access to justices of the peace; however, the government has indicated that the Justices of the Peace Bill 2004, currently before the other place, will relieve this pressure. Existing proclaimed managers will be allowed to continue in their roles until 2007, by which time they will have had to apply formally to be justices of the peace, if they desire to continue in that role. I note that there are some 330 proclaimed managers registered in South Australia and, while many of these may no longer be valid as they may no longer be managers, this could still leave a substantial gap.

Our concern here is to ensure a continuation, if not escalation, in the level of service to our rural and regional communities. I ask the minister in his summing up of the second reading debate to comment on the number of justices of the peace who currently operate in rural and regional areas of South Australia, and how he sees this changing in the future, should this bill be passed. It is essential that South Australians who live outside the metropolitan area are not disadvantaged by this legislation. In closing, again, I indicate that the Democrats have some reservations about the effect of this bill which may be at least delayed to an extent by the minister's summing up, but we support the second reading.

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

ACTS INTERPRETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 1514.)

The Hon. IAN GILFILLAN: I indicate the Democrats' support for the second reading of this bill. One of the more fulfilling roles for a member of parliament is participation in the process of modernisation—not always, but sometimes, it is quite outstanding—that must take place to keep our laws up to date in an era of phenomenal change. Few members would be as conscious of that change as I am when I look over this bill that endeavours to bring us up to date in the information age. In my primary school days, it was the ubiquitous pens with replaceable nibs and inkwells which were the technology used for communication. Unless they have kept them in some sort of museum, very few members—

Members interjecting:

The Hon. IAN GILFILLAN: I am hearing that maybe I was not so far before the trend.

An honourable member interjecting:

The Hon. IAN GILFILLAN: Yes; they were a bother. They caused smearing of ink on shirts, and then there were the nibs that crossed and then spluttered ink all over and, if you were short of blotting paper! I digress; fortunately, I have actually prompted recollections of the dim dark days. So, we have come a long way from there. Today, when computers are the ubiquitous technology, youngsters lug laptops around in their backpacks and hammer away at the keys in computer labs in schools around the state. Clearly, times have changed, and our legislation must change to keep pace, which is quite a challenge.

Definitions need to be expanded to include digital media and technologies so that film not only encompasses videotapes but goes further to include digital files on hard disks—CD-ROMs or DVDs. Documents will include computer files and images will include picture files. This bill is clearly a good thing. However, it would appear that we may have gone one step too far and, in identifying that, I read for the chamber clause 17 on page 7 of the bill, dealing with the production of records kept by computer or other process, which states:

> 51—Production of records kept by computer or other process
>
> If a person who keeps information by computer or other process is required under an Act—
>
> (a) to produce the information or a document containing the information to a body or person; or
>
> (b) to make the information or a document containing the information available for inspection by a body or person,
>
> then, unless the body or person otherwise directs—
>
> (c) the requirement obliges the person to produce or make available for inspection, as the case may be, a document that reproduces the information in a form capable of being understood by the body or person; and
>
> (d) the production to the body or person of the document in that form complies with the requirement.

It reads quite simply to the simple mind, but that is where one steps in to the more complicated and challenging aspect of it. On the surface, it appears a sound principle, but times have moved on and this principle can get people into a deal of bother and circumstances they cannot manage. It has long been the case that computer files have been required by courts to be produced in a format that the court can understand. In some cases this has had unfortunate consequences as a print-out of a complex computer system resembles a small library of books. In any case, this provision prevents a person from providing information in a form that is unusable by courts. However, circumstances exist where a person cannot comply with a request of this nature, and those circumstances come about due to the increasing use of encryption technologies in the world of computer applications or the rapid pace of advancement in computing, leaving behind obsolete technologies.

With these things in mind, it is clear that it is often impossible for people to be in a position where computer files cannot be supplied in human readable format. I give these simple examples to illustrate this point. Firstly, a good encryption system converts files into a format that can only be read provided a person has access to that encryption system and the right password or passphrase. If a person has encrypted files placed on the computer by a 'Trojan horse', controlled by a person or persons unknown, while the

computer is connected to the internet, there is no way for that unwilling recipient to decrypt those files. If these encrypted files are subsequently found on that person's hard drive, there is literally no way that that person can provide those files in a readable format. They have no way of determining the encryption used with the associated password. A person could have encrypted files on the computer because those files were attached to an email message and, once again, the recipient has no way of decrypting these files.

The second example is a much simpler scenario which exists with encryption software. A person can encrypt their files and forget their own password. I must confess that it may not be such a far-out possibility; on occasions I have forgotten my own password for various accesses to bank accounts and other matters, which has left me a bit embarrassed. Without wanting to put myself up as a classic example, this is not extraordinary as a possibility. IT help desks around the world are inundated with requests from users who have forgotten the password to a corporate document that is needed again months or years later. It is often the case that the person who password-protected the file did not even know that this would result in the file being encrypted and, of course, had no mechanism to record the password and associate that record with the file. Once a person has moved on from that workplace, there is a good chance that their files will hang around, even though no-one is able to open them. The first hint that a file is encrypted is a little box on the screen asking for a password. It may interest members to know that parliamentary counsel routinely password-protects draft legislation files that are being emailed to our offices here. It would perhaps be amusing to look at these files in the years to come and try and decrypt them.

The third example is when a person has old files on old media but no longer owns the relevant software or hardware that can read either the media or that kind of file. These records could be on punch tapes or cards, or disks from dedicated word processors, or just older computers, for example, Word Star files on eight-inch floppy disks. There are often cases where a person owns old computer files without having an inkling that those files are no longer readable, until they are required to produce those files and discover the problem.

The fourth example is a person who has files that have been corrupted beyond readability purely by the passage of time and the lifespan of the particular digital storage device or medium. Some CD-ROMs have already failed due to oxidation, despite these disks being expected to last for more than 50 years. Hard drives have a distinct life expectancy, and it is not easy to predict when they will fail. Good sectors become bad sectors, and files become unusable as a consequence. This is an ongoing problem for archivists and owners of significant content archives. For example, NASA has terabytes of data that is likely to be lost because it cannot be transferred to new media before the existing media collapse due to age.

All these circumstances are examples of times when a person or a corporate body could be in possession of computer files they genuinely cannot provide in a readable format. All these circumstances have already happened in the world, and they will go on happening, despite the good intentions of all those involved. With this in mind, the Democrats believe the government needs to provide an escape clause for the production of computer records. If not, the Democrats will be unable to support this provision. I hope I have adequately demonstrated to the council that very real problems can emerge because of some of the difficulties and the unpredictability of the new widespread technologies which are virtually compulsory in the way in which material is stored in today's society. I look forward to the minister addressing that issue in his summing up of the second reading, and I indicate the Democrat's support for the second reading.

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

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

Adjourned debate on second reading.

(Continued from 6 April. Page 1505.)

The Hon. CAROLINE SCHAEFER: My contribution will be inordinately short. We believe the amendments to the act are appropriate and necessary. Essentially, this amendment seeks to allow for levies, which were agreed to on the introduction of the food safety act initially to provide more flexibility in relation to their time of collection. The act, as an oversight, now allows for annual collection of levies. The dairy industry, in particular, has historically paid its levies on a monthly basis, and this bill seeks to bring in an amendment that would allow that flexibility within the various industries affected by the bill.

I sought the view of the South Australian Dairy Association (SADA), the South Australian Farmers Federation and the Master Butchers Association, because the meat industry is the other industry affected by this bill. None of these associations has expressed any concerns in relation to this bill, therefore the opposition supports the bill.

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

ADELAIDE DOLPHIN SANCTUARY BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 5.36 p.m. the council adjourned until Tuesday 12 April at 2.15 p.m.