LEGISLATIVE COUNCIL

Monday 26 August 2002

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

SIGNIFICANT TREES

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the Significant Trees Control Review made on Monday 26 August in another place by the Minister for Urban Development and Planning (Hon. J. Weatherill).

QUESTION TIME

SCHOOLS, EQUAL OPPORTUNITY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question about the Equal Opportunity Act.

Leave granted.

The Hon. R.D. LAWSON: On 5 August 2002 the *Advertiser* printed a report entitled 'Schools to bend the gender rule'. It said in part:

> Schools in South Australia are now able to hire a male or female teacher under a new interpretation of the Equal Opportunity Act. However, schools must show why that gender is necessary for the position and how it helps students. The change, introduced three weeks ago, will be used especially in hiring counselling, physical education and sports-coaching staff.

The report went on to mention that the Brighton Secondary School was the first to use the new interpretation, it having recently advertised for two women-only teaching positions in volleyball coaching and physical education. The report was welcomed by the opposition and we are delighted to see reason prevailing and that Brighton students are able to participate in volleyball competitions for which their school is renowned.

The Equal Opportunity Act provides that the Equal Opportunity Tribunal may grant exemptions from the operation of the act, and those exemptions are made unconditionally or upon conditions and there is a procedure laid down for obtaining such exemptions. Many businesses have applied for and, over the years, obtained such exemptions. The latest annual report of the Commissioner for Equal Opportunity provides details of those exemptions which are granted to companies for particular reasons.

The Minister for Education and Children's Services, on 5 August, issued a news release entitled, 'Schools Given More Power to Recruit Staff by Gender' which states:

> Schools have been given the opportunity to recruit staff of a particular sex under the Equal Opportunity Act. The option is only open to schools if they can prove that such an appointment is necessary to meet the needs of all students, particularly in the areas of counselling, physical education in cases where it may require routine supervision of change-rooms and educational trips.

The minister went on to say:

> Schools wanting to recruit a staff member of a particular gender will need to be able to provide documentation outlining the circumstances supporting the application. The application must first be discussed with the school's Personnel Advisory Committee before being forwarded to the Department of Education and Children's Services' Superintendent of Human Resources who will assess the specific circumstances within the context of the school's staffing and student profile.

The Equal Opportunity Act does not apply to every circumstance which might arise. In fact, section 34 of that act specifically provides that the act does not apply to:

> . . . discrimination on the ground of sex in relation to employment for which it is a genuine occupational requirement that a person be of a particular sex.

It would appear from the newspaper reports and the media release of the minister that the education department has obtained a new interpretation of section 34 of the Equal Opportunity Act. The new interpretation means that the act itself does not apply to the circumstances posited in the education minister's statement.

Whilst the opposition welcomes the report that schools will be able to hire staff in particular circumstances, it is of some concern to many businesses in the community which apparently have not received the benefit of the same generous concession.

The Hon. Diana Laidlaw: Or interpretation.

The Hon. R.D. LAWSON: —or interpretation. Businesses, sporting organisations, community groups and the like will still have to apply to the Equal Opportunity Tribunal for an exemption, whereas it would appear that government schools are able to rely upon an interpretation which gives them very much the inside running. My questions are:

1. Will the minister give consideration to extending the exemption which has apparently been extended to the Department of Education and Children's Services and to other community organisations, sporting groups and businesses which find themselves in the same position as, for example, the Brighton Secondary School found itself in relation to its volleyball team?

2. Will guidelines be issued and members of the community invited to seek the benefit of a new interpretation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply.

AFL PRELIMINARY FINAL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement relating to the AFL, the MCC and the ACCC made today by the Premier in another place.

MURRAY RIVER FISHERY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about fishing licences and levies.

Leave granted.

The Hon. CAROLINE SCHAEFER: As we all know, as the sorry saga of the river fishery drags on, the fishers were quite legitimately charged part licence fees prior to their acceptance or otherwise of the compensatory package. I understand that most of the fishers paid that licence fee in good faith. Part of the fishing licence was a $200 levy, which has always been paid to the South Australian Fishing Industry Council (SAFIC) as their peak body.

I have been advised today that the government in its wisdom has withheld that $200 levy from SAFIC, even though it was paid in good faith, on the premise that licence

fees will be refunded when these fishers are finally denied the ability to make a living. SAFIC was not informed or consulted about this decision and, except that it has decided to represent the river fishery on a voluntary basis, this decision has effectively removed the right of the river fisheries to the advice of a peak body. My questions are:

1. If these people are not entitled to the advice of a peak body, when will the $200 levy and fishing licence fee be refunded to them so that they can at least access the advice they so desperately require?

2. Has the minister sought legal advice as to whether he has, in fact, any right to retain that money since he has effectively removed these people's licences but retained the licence fee?

3. Will the minister advise whether this action was part of a budgetary measure or is it yet another broken promise?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In relation to the honourable member's question about the river fishery licences, at the time the gill nets were withdrawn from the river fishery the government made it clear that it would offer a package which included ex gratia payments to those fishers, and that they would have up to 30 September to accept those packages given that, as part of the arrangements put in place by the government, the river fishers were able to continue to fish for the first three months of this financial year. The government said at the time that, if the ex gratia payments were accepted, it would refund in full the interim licence fee.

Let me explain to the chamber that, when fishers pay their fishing licences, they generally pay in quarterly instalments. In the case of the river fishery, I think all fishers pay quarterly rather than the full annual fee. We said that the government would refund in full the fishing licence for the first quarter of the year, from 1 July to 30 September when the ex gratia payments were made. Obviously, that would include all components of that levy. In relation to the issue of the components of that, I will ask my department to investigate.

I think the honourable member asked whether I had sought legal advice in relation to that matter. My department may have and I will investigate it. Certainly, it was quite clear from the government's point of view that, in endeavouring to be fair to those inland fishers, we were offering to return the entire fishing licence.

The Hon. Caroline Schaefer: They can't fish through: they wouldn't have their licence.

The Hon. P. HOLLOWAY: They can fish with drum nets. This is one of the great myths that the opposition has created—

The Hon. Caroline Schaefer: They can't fish with drum nets in a low river: you know that.

The Hon. P. HOLLOWAY: Certainly, conditions in the Murray River are bad at the moment. There is a really disastrous situation in relation to the near closure of the Murray mouth, and all of us should be concerned about that. Obviously, that is affecting fishing conditions. To digress for a moment, let me say that I am greatly concerned at what impact any closure of the Murray mouth would have on the fishers in the lakes and Coorong area should that happen. I know that the government is working hard at the moment to deal with the closure of the Murray mouth so, yes, conditions within the river are particularly poor for fishing at the moment.

Nevertheless, there were other means of fishing and we said to those fishers that, if they wished to use other means of fishing, they were able to do so for the first three months of this financial year but, nevertheless, if they accepted the ex gratia payment, we would refund in full the licence fees for that year. I think that is a very fair offer. So, I do not believe the government has anything to apologise for at all in relation to that matter. We have been very fair in saying that they have three months to make up their mind. In that time they have to keep it alive by paying their licence fees, but we would refund that amount in full. Consequently, those licence fees have been set aside, as I understand it, so that they can be refunded in full. Really, I think that is the end of the story.

FOOTBALL VENUES

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the minister representing the Premier a question about football venues.

Leave granted.

The Hon. A.J. REDFORD: Last week the Premier in a response to a question from the earnest member for West Torrens, Tom Koutsantonis—

An honourable member: The welcher?

The Hon. A.J. REDFORD: The welcher. The Premier announced a petition directed to the AFL demanding that the MCG not host a preliminary final in the event that two interstate teams were the highest placed contenders in those games. In that respect, I disclose a dual interest: first, that I am a Port Power supporter and, secondly, I am a member of the MCG. I am also confident that Port will finish top next week, thereby taking the first step in ensuring an Adelaide final for the second-last game of the season.

On Saturday the Premier took the case one step further and upped the ante by referring the issue to Professor Fels of the ACCC, based on a possible breach of sections 45 and 47 of the commonwealth Trade Practices Act. These sections relate to contracts restricting dealings or affecting competition and also to exclusive dealings. The Premier, in a ministerial statement today, reiterated his position.

As I understand the argument, the venues, for example, the MCG, are in competition with the owners of AAMI Stadium for the staging of events. He also argues that the MCG and the AFL are in competition, although I am not precisely sure as to how or why, given that AFL members have a sizeable chunk of the MCG stadium. If the Premier is correct, then there may well be other ramifications for the conduct of football and other sports in South Australia, for example, cricket or basketball. Indeed, there has been one significant running battle over the past 20 years regarding the best venue for football in South Australia, that is, the question of whether Adelaide Oval should host AFL games or whether AAMI Stadium should host cricket. Just as the exclusive arrangement for football at the MCG may be anti-competitive or a prohibited exclusive dealing, so might the exclusive arrangement be so characterised in so far as AAMI Stadium and home and away games be so described. Indeed, I am concerned—

The Hon. J.F. Stefani: And Hindmarsh stadium.

The Hon. A.J. REDFORD: And Hindmarsh stadium, the honourable member pertinently interjects. Indeed, I am concerned that the Premier may well have opened a Pandora's box in the latest stage of his campaign. In the light of this my questions are:

1. Has the Premier considered whether his arguments might be used to support AFL home and away games at Adelaide Oval?

2. Will the Premier support SACA plans to upgrade facilities, as previous governments did with AAMI Stadium on a bipartisan basis, to ensure that equal competition exists between Adelaide Oval and AAMI Stadium?

3. What other ramifications might arise with, for example, one-day cricket games at Adelaide Oval versus Sydney Stadium or the MCG, other sports and venues?

4. Will the Premier assure us that the SANFL and the SACA will not have to produce documents regarding local arrangements in the same way as he has suggested the MCG must pursuant to section 155 of the Trade Practices Act?

5. Can we use this method to get the Grand Prix off the Victorians to remedy the fact that he left the contract in the bottom drawer when he was the responsible minister?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I have a question for the Hon. Angus Redford. Does he, or does he not, want to see a preliminary football final in this state? I think every member in this council would want to see the football final here. I think the public of this state would congratulate the Premier on doing his best to try to ensure that the preliminary final is held in South Australia. As the honourable member said, maybe if Port Adelaide beats Brisbane at AAMI Stadium this week it will be theoretical as far as this state is concerned, but I note that Premier Beattie in Queensland is also concerned to ensure that there is a preliminary final in his state. After all, if the rules of the competition state that the sides that come first and second in the competition should be advantaged by having a final in their state, why should that principle be breached out of this problem with the MCG?

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: I think that the people of South Australia will congratulate the Premier on taking this attitude and in taking this stance to try to ensure that this state gets the final to which it is rightfully entitled. In relation to the question, I will pass the specifics on to the Premier. I am sure that most people of this state would welcome the actions the Premier is taking to ensure that we do have a preliminary final in this state.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister also refer to the Premier the restrictive arrangements that the state government is endeavouring to impose on Adelaide City Force in relation to home matches that Adelaide City Force is compelled to play at Hindmarsh stadium at exorbitant prices when it could play elsewhere at much reduced costs?

The Hon. P. HOLLOWAY: I will refer that question to the Premier.

OPAL MINING

The Hon. CARMEL ZOLLO: I seek leave to make an explanation before asking the Minister for Mineral Resources Development a question regarding the regulation of opal mining.

Leave granted.

The Hon. CARMEL ZOLLO: One of the showcase products for the state is the opal. The stones mined in South Australia are famous for their quality and they are very popular with tourists. Given the remoteness of most opal mining areas, the cost of service delivery can be quite high, with clients demanding prompt service to ensure access to resources. My question to the minister is: what changes have taken place, and are planned, for the regulation of opal mining in the opal fields to ensure that government services meet client needs?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the Hon. Carmel Zollo for her question about this very important industry for this state. After consultation with the opal miners at Coober Pedy, through the Opal Mining Association, the regulatory functions of Primary Industries and Resources SA have been restructured to ensure improved service delivery and to provide a consistent approach to regulation throughout the scattered opal fields. I remind the council that opal mining is taking place from Andamooka through to Coober Pedy, Mintabie, Lamina and other fields in the Far North regions of the state.

Compliance officers from Marla, Mintabie and Andamooka will now be based in Coober Pedy, which will improve occupational health and safety issues for officers in the field and ensure a high standard of administrative support and back-up. Compliance officers in the opal fields administer and regulate opal mining and facilitate effective mining, which supports the area's main local industry and the general community. The officers help to maintain good order on the fields by ensuring that tenement holders work in accordance with legislative and current environmental requirements.

The registration of opal claims and their administration recently has been transferred from the Adelaide office to Coober Pedy to streamline tenement matters and to provide direct face-to-face service with our clients, the opal miners. Officers now travelling out of Coober Pedy provide services at Marla and the Lamina opal fields three days per week. I visited Lamina late last year with the member for Giles (in whose electorate the fields are located) and spoke to the miners and, of course, one of their concerns was the difficulty in having their tenements registered. I am pleased to see that we have been able to provide services to that area.

The changes provide improved living and work conditions for previously isolated officers, improving variety by increased opportunity for multi-skilling, but at the same time they provide a more consistent approach to regulation of the fields, and generally reduce the risk of regulated capture. I think the council would understand what that means in terms of having just one officer in some of those isolated regions.

I am pleased to report that, during recent discussions between senior people in PIRSA and the South Australian Opal Miners Association, it was agreed that service delivery to opal miners has greatly improved—in particular, the reliability of tenement data. This is good news, and the restructure of the opal fields will be completed in the near future with the move of the Andamooka function to Coober Pedy. These changes have put considerable pressure on the main office of Coober Pedy, but I am pleased to announce that planning is well advanced for the construction of new office accommodation so that staff work in a modern, attractive and effective office environment.

VACCINATIONS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Health, a question about the measles/mumps/rubella vaccination being administered to new mothers.

Leave granted.

The Hon. SANDRA KANCK: Members would be aware of the recent controversy in Britain over studies showing

links between the MMR vaccination and autism in children. A trial program of vaccinating new mothers with the MMR vaccine is being undertaken at both the Flinders Medical Centre and Flinders Private Hospital during the confinement of women after giving birth. Studies have shown that traces of vaccine by-products can be excreted in breast milk for up to six weeks after the vaccination has been administered. In one case, eight weeks after a new mother was administered the MMR vaccination she became pregnant. Six weeks into her pregnancy she contracted rubella and, as a consequence, terminated the pregnancy. My questions are:

1. On what medical grounds is this trial being undertaken?

2. When did it commence and when will it be concluded?

3. On what basis would it be extended to any other hospitals in South Australia?

4. Does the minister consider that new mothers are being fully informed, including risks and side effects to them and their babies, before vaccination is carried out?

5. Given that rubella is the only risk to new mothers, why are they also being vaccinated against measles and mumps?

6. Is the transference of vaccine by-products in breast milk being fully explained?

7. What guidelines are in place for the administration of the MMR vaccine to women who may be considering another pregnancy?

8. Has the policy for vaccination of females at age 12 been reviewed in the light of first pregnancies occurring later in life?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Health in another place and bring back a reply.

ASSAULT PENALTIES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question about penalties for assault.

Leave granted.

The Hon. T.G. CAMERON: The government has recently announced that it will restructure the crime of assault and increase the penalties. These include variously: common assault (two years maximum), to creating grievous bodily harm (10 years); intentionally causing serious harm (20 years maximum, and 25 years for the aggravated offence); recklessly causing serious harm (15 years maximum, and 19 years aggravated); and negligently causing serious harm (10 years).

It seems to me that the government is just window dressing. It also suggests that judges sentence as a percentage of the maximum and not on intuitive sentencing. Raising the maximum penalty, therefore, simply sends a message that the worst of these crimes should be punished most severely. My questions to the minister are:

1. As a percentage, how many convictions for common assault in the past five years attracted the maximum penalty?

2. Is the government convinced that increasing the maximum penalty will lead to tougher sentences for all or only for crimes that currently attract a maximum?

3. If simply increasing the penalty will lead to tougher sentences from judges, why is the government pursuing guideline sentencing as well?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Attorney-General in another place and bring back a reply.

SOUTHERN EXPRESSWAY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about the Southern Expressway operating hours?

Leave granted.

The Hon. DIANA LAIDLAW: Tourism operators in the Southern Vales and Fleurieu Peninsula, from restaurateurs to vignerons, have alerted me that an adjustment to the current operating hours of the Southern Expressway to and from the city would be a bonus for tourism throughout the region. Since stage 2 of the expressway became operational in 2001, the road is open on weekdays for traffic from the south to the city from 2 a.m. to 12.30 p.m. It is then closed for 1½ hours, and at 2 p.m. until 12.30 a.m. it is open for traffic from the city to the south. The times work in reverse on weekends.

It has been suggested to me that, if the closing time for the morning weekday peak flow from the south to the city were brought forward by one hour or 1½ hours to either 11 a.m. or 11.30 a.m., this adjustment would allow people from the city to more readily access Southern Vales restaurants and wineries throughout the Fleurieu Peninsula, in particular to enjoy the lunchtime trade. By now it should also be possible for Transport SA to close the road for a maximum period of one hour only prior to each change in traffic flows, that is, two hours in all as originally envisaged and not the 1½ hours or three hours in total that it is currently closed.

I highlight the fact that any suggested adjustment in week day peak times would require a similar adjustment at all other times of opening and closing to ensure that operating hours are easily communicated and widely understood. Meanwhile, I understand that the Southern Expressway has not yet been fully handed over from the construction contractors to Transport SA—and I was rather surprised to learn of this—because there are outstanding issues with the intelligent transport computing technologists and the completion of the cycleway. Therefore, my questions are:

1. When will the Southern Expressway be fully completed and officially or legally handed over to Transport SA to operate and maintain?

2. When will the time taken for each changeover of traffic flow direction be reduced from 1½ hours, as is the case presently, to 1 hour, as was originally envisaged?

3. Will the minister use the intervening period to at least consider and, ideally, test an adjustment to the current operating hours of the Southern Expressway to bring forward by 1 hour or 1½ hours each flow sequence—and that would depend on the maximum time required to keep the road closed before reversing the flow?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those very informed but complicated questions to the Minister for Transport in another place and bring back a reply.

ADELAIDE AIRPORT

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier, a question about the Adelaide Airport redevelopment.

Leave granted.

The Hon. T.J. STEPHENS: In this chamber we all know that the current airport facilities are antiquated in this day and age and make a disappointing first impression on visitors to our state. The previous Liberal government signed off on a redevelopment proposal, but the catastrophic demise of Ansett saw that agreement collapse. People arriving at or departing Adelaide Airport at times are exposed to torrential rain or 40° heat, and no-one is proud of that in this day and age. We do not have airbridges to provide what is a basic expectation of air travellers, both our own and visitors.

I was encouraged by Premier Rann's grand announcement that on Tuesday in Brisbane he had clinched the Virgin deal to enable a new airport to go ahead. I was particularly pleased that it was Virgin that had entered into this deal with our state government to have a permanent base at Adelaide Airport, and it certainly sends a strong message that Virgin is here to stay. I am sure that we are all pleased that Virgin has brought competition in air travel back into the marketplace, and I for one wish to congratulate Virgin on its terrific level of service. So, I was relieved that the Premier made the announcement on Tuesday that Virgin will be a tenant.

This announcement was made with great fanfare which, at the time, I believe was warranted because, obviously, the problem of modernising Adelaide Airport has now been solved. However, less than two days later the Premier's announcement was watered down with Virgin's commercial head saying on Thursday that the airline was reviewing all of the design factors and he could not say whether it would opt for airbridges. Some deal! Adelaide and interstate travellers alike are no closer to arriving and departing in comfort, and the problem of antiquated services at Adelaide Airport remains. My questions are:

1. Does the Premier acknowledge that a new airport without all of the major airlines tenants having access to airbridges is unacceptable?

2. What is the Premier doing to alert Virgin Airlines to that fact, and when does he expect to be able to report that he really has clinched an acceptable deal?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Again, I think all South Australians will be delighted that the Premier has been negotiating with Qantas and with Virgin to try to resolve this problem that has been around for some time. After all, as the Hon. Terry Stephens himself said in his question, this is something that was announced by the previous government but, of course, it fell over because of the problems with Ansett. This government has been working very hard to try to resolve that. I will pass on the specifics of the honourable member's question to the Premier, who of course has been involved in negotiations fairly recently. I am sure that all South Australians would hope that this matter will come to a speedy end and that we will get the sort of airport terminal that we deserve. I think we can all be pleased that the Premier has been working so hard towards achieving that end.

REGIONAL EVENTS

The Hon. G.E. GAGO: I seek leave to make an explanation before asking the Minister for Regional Affairs, representing the Minister for Tourism, a question about support for regional events.

Leave granted.

The Hon. G.E. GAGO: The government has recently made some announcements regarding funding for important community events in the regions, including the Coober Pedy Opal Festival. Can the minister outline some of the other recipients of funding for important community events and festivals which improve prospects for tourism in our regions?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank the honourable member for her question, and I hope that she is satisfied with the reply that the state government does recognise that special events and festivals are an important part of life in country areas, bringing people together to celebrate and enjoy their community spirit, and encourage others to join them. It is also a way of bringing revenue into communities and of community building.

The government also recognises that many of these events are now an important part of attractions for tourists to visit particular parts of the state, and that people are now putting a lot of the programming of special events into their diaries. Many communities rely on key events to provide a big boost to their local economies and to raise funds for local charities. A lot of work has been done with local communities—by the former government, too—to try to recognise natural features that they might have, or encourage them to identify those areas that special events can be organised around.

In recognition of this, the Minister for Tourism has recently announced that a number of events and festivals around the state will be beneficiaries of grants to assist with promotion and marketing. The range of events is wide and varied and includes the Barossa Vintage Festival; the Cummins Kalamazoo race (which the Hon. Caroline Schaefer would probably be aware of); the Laura Folk Fair; the Mount Gambier Festival of Country Music, which has been successfully held for a number of years; the Robe Village Fair; the Australian International Pedal Prix in Murray Bridge; and the Supreme Australian Sheepdog Championships in the Riverland.

The government is proud to support these events, and a number of others in our non-metropolitan regions, at a cost of over $270 000. There are a number of other events that occur in regional areas—including the Mount Gambier Jazz Festival—which do attract a whole range of people, and they have been operating for many years. They bring a whole lot of benefits to the hospitality industry particularly, as well as a wide range of other community industries.

STATE BUDGET

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, a question about the preparation of the state budget.

Leave granted.

The Hon. J.F. STEFANI: Following the election held on 9 February 2002, the Labor Party, with the assistance of the member for Hammond, was able to form government. Ministerial portfolios were allocated in early March 2002. The member for Hart, the Hon. Kevin Foley, was sworn in as the Deputy Premier, Treasurer and Minister for Industry, Investment and Trade. The Treasurer presented the state budget to parliament on 11 July 2002. First, can the Treasurer advise the council of the exact date on which he began work on the state budget? Secondly, can he also confirm the exact date that the budget was formulated and finalised, before it was presented to parliament?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Treasurer for his answer. I would imagine that, in answer to

the first question, the Treasurer would have begun work on the day that this government was sworn in—5 March 2002. I am sure that he would have been very keen—as we all were—to examine the true state of this state's finances. However, I will leave it to the Treasurer to respond to the honourable member.

YOUTH SERVICES FUNDING

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 Youth, questions about funding for youth based programs.

Leave granted.

The Hon. A.L. EVANS: On 4 June 2002, I put a number of questions concerning youth suicide to the Minister for Youth relating to a government promise of $2 million in funding over the next four years for youth at risk of drug abuse, homelessness and suicide. I asked the minister what proportion of the $2 million would be committed to helping youth at risk of suicide. Her response was that the budget would reflect additional resources towards mental health services. She stated that the government was funding a number of preventive and supportive strategies across a range of government departments and agencies that could be accessed by young people.

I draw the minister's attention to the 2002-03 budget, under the heading 'Community based care', which states that the highlight of 2001-02 was the establishment of accommodation and treatment programs for high risk adolescents in the area of mental health. However, the budget targets for this financial year (2002-03) do not appear to contain the same category program. My questions are:

1. Are the accommodation and treatment programs for high risk adolescents still functioning and providing a service? If so, what are the target outcomes for the financial year 2002-03?

2. Now that the budget is in place, what proportion of the promised $2 million has been committed to help youth at risk of suicide?

3. What programs are outlined in this year's budget for the support of young people and what are the budgetary allocations for each program?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer the honourable member's important questions to the responsible minister in another place and bring back a reply.

IRRIGATION

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Regional Affairs, representing the Minister for the River Murray, a question on irrigation.

Leave granted.

The Hon. D.W. RIDGWAY: As recently reported, the mouth of the River Murray is about to close, and there has been much discussion about increased water flows and the reduction of the amount of water available for irrigation. It is my understanding that a tremendous amount of water is lost from open irrigation channels due to evaporation and seepage. While I recognise that the former government and this government have continued the Loxton rehabilitation scheme, I believe that in extreme circumstances up to 98 per cent of water can be lost. My questions are:

1. How many kilometres of open drains do we still have in South Australia?

2. How many kilometres of open drains do we have in the Murray-Darling irrigation system?

3. How much water is lost due to evaporation and seepage from these open channels across the whole of the national irrigation system?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I will refer the honourable member's important questions to the Minister for Environment in another place and bring back a reply.

NORTHERN REGION STRATEGIC FORUM

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question about the northern region strategic forum.

Leave granted.

The Hon. J.S.L. DAWKINS: The Australian Labor Party policy statement released during the 2002 election campaign included a section on the northern region, which made a reference to developing strategic partnerships for regional development. It also included an intention to seek agreement from northern region councils to establish a northern region strategic forum to strengthen the relationships between the state government, its agencies and the northern region councils.

The role of the forum would be to promote and support regional initiatives and lead economic and social development through a more strategic approach by the state government and to coordinate state government responses to the sustainable regions initiative. The forum would be given authority to act and respond to local needs and challenges. Labor's northern ministers in cabinet would oversee the work of the forum and act quickly to overcome any unnecessary bureaucratic obstacles which blocked its work.

The reference to 'northern ministers in the cabinet' confirms that this policy section refers to the northern region of the metropolitan area rather than the whole state. While some people may well put the case that the minister's portfolio does not cover metropolitan regions, I ask him these questions in the absence of a minister for the northern suburbs when all honourable members know that there is a Minister for the Southern Suburbs. Indeed, I was pleased to note media reports about the minister's recent visit to the Virginia Horticulture Centre and its surrounding region, which is largely in the metropolitan area. My questions to the minister are:

1. What action has been taken to seek the agreement of northern suburbs councils to establish the Northern Region Strategic Forum?

2. Which local government areas have been included in this forum?

3. What action has been taken to coordinate a state government response to the Sustainable Regions initiative?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): The northern regions forum is probably the last of the regional forums that we are looking at in relation to its future role and function. It is unusual in that it is a mixture of rural and metropolitan and does not quite fit into one bracket or another, although it appears to be working quite well. The discussion phase of our assessments has not started. Although we have spoken to and sought advice from a wide range of people, we have not yet discussed the issue with the northern regional body. I hope to be able to do that soon. I understand

that the responsibility for setting up office in the northern regional area will come under another minister and will not be under the Office of Regional Affairs but will be the responsibility of another cabinet member.

I hope to be able to work with the Northern Regional Economic Development Board and local government, because over the years they have put together a very good strategic team and have initiated a whole range of not just development programs but social and environmental protection programs that have led not only the state but also the nation on a whole range of issues in which they have formed partnerships with the private and public sector. They have done that very well. I will give an undertaking that the Office of Regional Affairs will develop a position in relation to the northern regional body and bring back a reply.

ATTENTION DEFICIT HYPERACTIVITY DISORDER

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the minister representing the Minister for Health a question about the recommendations of the Social Development Committee inquiry into attention deficit hyperactivity disorder.

Leave granted.

The Hon. SANDRA KANCK: On 29 June 2000 the Australian Democrats successfully moved for a parliamentary inquiry into government services for and the impact of ADHD on the South Australian community. This followed a DETE and a DHS working party report into the disorder between 1997 and 1999 as well as a DHS task force investigation. The Social Development Committee inquiry brought together the findings of these working groups, submissions from international experts, departmental representatives and members of the public to produce a series of 12 recommendations. The committee reported to the parliament last year, and the previous government and minister were required under the act to respond to it.

I do not believe that that occurred, and those recommendations were again tabled in parliament this year for the new government to respond to. One important recommendation was as follows:

> The Department of Human Services and the Department of Education, Training and Employment jointly provide assistance to the Attention Disorder Support Group and the Adult Attention Disorder Support Group, possibly in the form of a one-off grant, to allow the establishment of an office with consideration for ongoing funding to cover some recurring running costs such as telephone lines for counselling, the cost of producing education and information resources and materials, and office goods and services.

On 5 June this year the government tabled an interim response in the House of Assembly, but it did not deal with the recommendations which would not be carried out and the reasons for not carrying them out, as required under section 19 of the Parliamentary Committees Act; neither did it detail whether urgently needed funding would be provided to ADHD support groups in South Australia. Instead, the response foreshadowed yet another working group inquiry. My questions are:

1. Will the minister detail exactly when the families of children with ADHD will receive a full response to the recommendations of the inquiry, as well as an announcement of the government's position on this issue of so much public concern?

2. Will the minister detail whether any funding was set aside in this year's budget to adopt the Social Development Committee's recommendation to provide a grant for ADHD support groups?

3. Does the minister expect that the inquiry's recommendation to introduce monitoring of multimodal treatment will be adopted so that there is a mechanism to check that important social and educational interventions are accessible to the families of children with ADHD?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will pass on those important questions to the minister in another place and bring back a reply.

GAMING MACHINES

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government, representing the Treasurer, a question on the issue of the ACCC.

Leave granted.

The Hon. R.I. LUCAS: My colleague the Hon. Mr Redford raised an issue earlier in question time in relation to the government's approach to the ACCC on issues in relation to football finals. My question relates to the Treasurer's raising some six weeks ago an issue in relation to the gaming machines tax that was introduced by the government in its budget. On 15 July, under the headline, 'Don't dare raise your prices—Foley warns hoteliers', an article in the *Advertiser* states:

> Australia's competition watchdog will be asked to investigate claims that large poker machine venues will pass on a new super tax to their customers. Treasurer Kevin Foley said yesterday he was writing to the Australian Competition and Consumer Commission to ask it to investigate possible 'anti-competitive behaviour'. . . Mr Foley has warned hoteliers that any threatened price rises are unjustified and unreasonable. 'The government will not tolerate any suggestion that hoteliers will pass tax increases onto customers through price raises,' Mr Foley said. 'I will be seeking urgent advice as to whether it is appropriate for the ACCC to investigate the comments made by the AHA. Any suggestion of anti-competitive behaviour, and that an agreement on price rises has occurred, is a very serious matter.'

Given that Mr Foley said this was an urgent matter some six weeks ago, will the Leader of the Government inform the council as to the nature of the reply that the government received from Professor Fels and the Australian Competition and Consumer Commission to its urgent request to take action?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer that question to the Treasurer for his reply.

SUPERANNUATION

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Treasurer, a question on the topic of superannuation choice.

Leave granted.

The Hon. A.J. REDFORD: We on this side of the chamber have noticed, on the part of members opposite, a new-found knowledge of competition policy, particularly when one has regard to the venue issue that I raised earlier in question time and the issue raised by my leader on the topic of poker machines and prices in the previous question. We on this side of the chamber have also noticed the new-found respect and regard that the Treasurer has for the federal Minister for Finance and Assistant Treasurer, Helen Coonan,

in relation to reforms in compensation laws and the law of torts.

I note that, in today's *Advertiser*, the federal Assistant Treasurer Helen Coonan (the same person whose virtues Treasurer Kevin Foley was extolling last week), said:

> It was 'repugnant' that employers could dictate to which fund their employees' superannuation contributions were made.

She went on and said that she was very determined that the government would deliver choice of fund to members. She indicated that the choice of fund bill was introduced in parliament about five years ago and was due to be debated again. It would allow employees unlimited choice as to where their superannuation contributions were made.

Whilst the state parliament does not have exclusive jurisdiction in relation to this matter, it is open to the state government to give state government employees the choice of superannuation and where they might or might not want to put their superannuation. It is disappointing to note that, on previous occasions, there has been some opposition from members opposite to giving ordinary workers that choice. In the light of that, my questions to the minister are as follows:

1. Does the ALP and, in particular, Treasurer Foley, support the assertions made by the Assistant Treasurer Helen Coonan that employees should have their own choices in relation to superannuation?

2. If not, why not?

3. Would the Treasurer consider, notwithstanding any viewpoint of the federal parliament or his federal colleagues, giving employees in this state the choice of which superannuation fund they may or may not want to join?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): As the honourable member said, superannuation essentially comes under the jurisdiction of the federal parliament, and it is really up to my federal ALP colleagues to determine their views in relation to that. So, in relation to the first question asked by the honourable member, that is really a matter for my federal colleagues. I will refer the second part of the question to the Treasurer, since he was asked whether he would consider changing state legislation.

The Hon. A.J. REDFORD: Sir, I have a supplementary question. Does the leader honestly want us to believe that there is no state responsibility for superannuation, given that only last week we approved four sets of the Treasurer's regulations for superannuation in relation to state and other employees? Is the member expecting us to take him seriously in any way, shape or form following that answer?

The PRESIDENT: Order! The Hon. Mr Redford has asked the question, and he is repeating it.

The Hon. P. HOLLOWAY: The state government does have its own superannuation schemes—at least three of them across the general Public Service. It also has separate schemes, of course, in relation to judges, police, members of parliament and other members of the community. So, of course, the state government has a role in relation to those schemes. But in relation to the overall legislation as it relates to private schemes, that is a matter for the federal parliament.

GOERS, Mr P.

The Hon. DIANA LAIDLAW: I seek leave to ask the Minister for Agriculture, Food and Fisheries, representing the Minister for the Arts, a question about Mr Peter Goers.

Leave granted.

The Hon. DIANA LAIDLAW: Last week's issue of the *Government Gazette* formally confirmed the open secret that has run rife across the arts over the past six weeks that, on the recommendation of the Premier and Minister for the Arts, the government and the Executive Council has appointed Mr Peter Goers as a trustee of the Adelaide Festival Centre Trust. I am aware that, within the past eight weeks, the Premier has also appointed Mr Goers as a member of the South Australian Youth Arts Board. My questions are as follows:

1. As it was always my practice, when minister of the arts, to discuss the appointment of all board members to all state government statutory authorities with the chair and/or the general manager or director of that organisation, did the Premier canvass his wish to appoint Mr Goers with either the Chair and/or the Director, General Manager or Chief Executive Officer of the Adelaide Festival Centre Trust and the South Australian Youth Arts Board and, if not, why not?

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Many people have been asking me these questions and I do not know the answers. I continue:

2. Will the Premier confirm any other examples where working journalists and/or media commentators have been appointed to government boards and committees let alone arts boards in this state; or, to his knowledge, is Mr Goers' appointment a one-off?

An honourable member: He is a one-off.

The Hon. DIANA LAIDLAW: The interjection is that he is a one-off. I continue:

3. What will Mr Goers be paid in respect of his membership of both the Adelaide Festival Centre Trust and the South Australian Youth Arts Board, or has the payment been withheld by the Premier or refused by Mr Goers on the basis—as some journalists have already highlighted to me in recent days—that such payment from the government has the potential to compromise the independence of the journalist and/or the frankness with which a journalist may express their views for or against the government on any matter at any time?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): As far as the honourable member's first question is concerned, I will refer that to the Premier; I do not know whose views the Premier canvassed in relation to this appointment. In relation to the second question about working journalists, one name that comes to mind is Winnie Pelz, who, I believe, was appointed by the previous government. Surely the Hon. Diana Laidlaw is not suggesting that working journalists or journalists should be excluded from participating in society. I am aware that Peter Goers is actively involved in the arts. He has had a very long interest in the arts and more than just as a journalist.

An honourable member: He is a performer.

The Hon. P. HOLLOWAY: That is right, he is a performer. In fact, I was invited to attend some function on Yorke Peninsula some time back when he was working with various theatre groups. He has a longstanding involvement in the arts. I think that Mr Goers' appointment will certainly add a bit of life and colour to these memberships, and I think that most people would—

The Hon. A.J. Redford: Are you going to disclose it?

The Hon. P. HOLLOWAY: Disclose what?

The Hon. A.J. Redford: Honesty and accountability.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Whatever else one says, one could scarcely say that Peter Goers is invisible. Everyone knows where Peter Goers is coming from and where he sits

on issues. So, in terms of disclosure, I am sure that everyone knows Peter Goers' views.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: That was the third part of the question asked by the honourable member. I will refer that question to the Premier for his response. I am not sure what the remuneration arrangements are.

REPLIES TO QUESTIONS

GLENELG TRAM

In reply to **Hon. SANDRA KANCK** (8 July).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information:

1. Is the minister satisfied with the level of routine maintenance of the tram track between Glenelg and Adelaide?

The routine maintenance of the tram track is carried out to a strict regime and to nationally adopted codes of practice.

2. Is the minister satisfied with a level of routine maintenance of the trams which operate between Glenelg and Adelaide?

The routine maintenance of the trams is carried out to a strict regime and to standards consistent with national codes of practice for vehicles.

3. Are the tram tracks in Victoria Square joined by track connectors, or do they rely on being partially embedded in concrete to stay in place?

The tram tracks in Victoria Square do have track connectors.

4. Does the profile of the tram tracks require grinding to match the profile of the tram wheels?

The relationship between the tram wheel and railhead of the tram tracks is important to track and ride quality. The correct interface can be achieved by a combination of factors, including rerailing or grinding of the rail. TransAdelaide identifies sections of rail requiring rerailing in the course of its routine inspections. Major grinding of the existing rail has not been undertaken to date.

5. If so, when was the last time this was done and when is it scheduled to be carried out again?

Grinding of the tramline will be carried out in association with the next major resleepering, which is proposed in the next five to 10 years.

6. Were correct maintenance procedures carried out on Thursday 20 June and, if so, can the minister explain the second derailment incident on Saturday 22 June?

There is no evidence that maintenance inspection procedures contributed to the mechanical failure of a switch on Thursday 20 June.

The incident of Saturday 22 June occurred at the same switch location as the incident that occurred on 20 June. The latter incident was the result of mechanical failure of a welded component which, despite close inspection previously, may have been damaged on the first occasion. However, on this occasion the tram was able to return to its normal operation without further assistance.

7. Are there maintenance crews specifically trained in tram operations working in Adelaide, or is it the assumption that training in heavy rail maintenance can be applied to light rail maintenance?

TransAdelaide maintenance crews are appropriately trained in both tram and train track maintenance.

TOBACCO SMOKING

In reply to **Hon. NICK XENOPHON** (4 June).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. What steps will the minister's department take, in particular, with respect to his occupational health, safety and welfare inspectors who are responsible for enforcing the legislation, following the decisions of both the New South Wales Supreme Court and the federal court to which I have referred to ensure that workers in the hospitality industry, in particular, are not needlessly exposed to the risk of contracting serious health conditions, including lung and throat cancer, from passive smoking in the workplace?

This matter has been considered in 2001 by a sub committee of the Occupational Health Safety & Welfare Ministerial Advisory Committee which looked at strategies and recommendations to address passive smoking in the workplace. The sub committee had representation from WorkCover, Workplace Services, Department for Human Services, Business SA, United Trades and Labor Council and the Australian Hotels Association.

The subcommittee recommended that the Tobacco Products Regulation Act 1997 should be used as the primary regulatory framework for controlling smoking in public places including workplaces. It was further recommended that the implementation on smoking bans be phased in so that as from January 2004 all enclosed workplaces, including hospitality workplaces, be smoke free.

I am advised that the Department of Human Services will be the lead agency to work towards implementation of the recommendations. This will include further consultation with industries most impacted by smoking bans, such as the hospitality industry.

2. Does the minister consider that inspectors have the power to declare workplaces smoke free under current Occupational Health and Safety regulation and, if so will he support inspectors in declaring workplaces smoke free?

Inspectors do not have a specific power under the current regulations to declare a workplace smoke free but may, if warranted by the circumstances of a particular case, use their powers to issue improvement or prohibition notices to require a workplace to be free of smoke. The inspectors' responsibility is to pursuethe objects of the Act, which includes ensuring that, '…the employer shall provide & maintain so far as is reasonably practicable a safe working environment.' In relation to passive smoking complaints, this means ensuring that the employer has conducted a risk assessment and implemented appropriate controls in order to reduce exposure to workers who do not smoke.

In the absence of specific 'smoke-free' legislation, appropriate controls may mean installation of extraction fans, or restricting smokers from smoking, or other acceptable methodologies. In some instances, dependent upon the facts of the case, an inspector could use an improvement or prohibition notice to temporarily stop people smoking at a workplace until appropriate controls had been implemented.

The policy of both the department and the Minister for Industrial Relations on these matters is to support inspectors in their enforcement of the State's Occupational Health Safety and Welfare laws.

The Minister for Industrial Relations notes that because the use of an improvement or prohibition notice in these circumstances would be an imprecise tool to achieve a non-smoking outcome (the choice of measures to overcome the hazard rests with the occupier or owner of the premises) it is preferable for consideration to be given to amending the Tobacco Products Regulation Act 1997, which will give SA workplaces and workers a more precise outcome.

3. Will the minister support workplaces that do not adopt a smoke free environment for their employees being subjected to higher WorkCover premiums?

Generally speaking, Occupational Health Safety and Welfare legislation places the onus on employers to identify risks that may be peculiar to their particular class of employment or industry. Failure to adequately do so may lead to higher WorkCover premiums. The Minister supports this approach.

The SafeWork Incentive is an initiative of WorkCover Corporation that will commence its first phase later this year. With the introduction of this incentive, an employer's ability to access incentives is linked to implementation by that employer of safe work strategies in their workplace. This will include the proper identification of the risks involved in carrying out that type of work.. The SafeWork Incentive is based around encouraging employers to be actively responsible for the health and safety of their workplaces.

4. How many WorkCover claims have been made with respect to health conditions caused by passive smoking since inception of the WorkCover Scheme ?

There have been 15 claims from registered employers and 10 claims from self-insured employers for passive smoking related conditions since inception of the WorkCover Scheme. The types of conditions include migraine, respiratory complaints such as asthma and bronchitis, rhinitis, sinusitis and vocal cord sensitivity. Occupations and industries involved include nurses, waiters, barpersons, welders and drivers.

5. What studies and/or research has the Minister's Department undertaken or have in its possession on the potential health impact of environmental tobacco smoke on workers in enclosed spaces in gaming rooms and in the Adelaide Casino?

Several overseas studies have been reviewed. These studies indicate that employees working in a casino gaming area were found to be exposed to environmental tobacco smoke (ETS) at a level greater than that observed in the general population. The literature indicates that health effects due to exposure to ETS are highest

among the employees in the hospitality industry. However, the current legislation and exemption process is skewed towards protection of patrons rather than employees.

In Western Australia, a study in 1999 carried out by the Australian Council on Smoking and Health (ACOSH), the authors concluded that ETS may be responsible for various respiratory symptoms experienced by workers at the Burswood Casino. Employee blood cotinine levels and lung function were measured immediately before and after their shifts at the Burswood Casino. Plasma cotinine levels were found to increase over the course of the work-shift. Changes in lung function were also observed in employees working in smoking areas.

The authors conclude that the observed effects may reasonably be attributed to ETS exposure, which is supported by the increase in plasma cotinine level over the course of the workshift. Cotinine is exclusively a metabolite of nicotine so that no other exposure can be implicated in the increase.

A study conducted by the Cancer Council Victoria, in 2001, among non-smokers who worked in bars, hotels, gambling venues and restaurants, concluded that workers exposed to passive smoking at work were more likely to suffer from a range of respiratory symptoms such as wheezing, shortness of breath, coughing, sore eyes, and sore throat.

Recent statistics from the Tobacco Control Research & Evaluation Program, Anti-Cancer Foundation (a survey of 3000+ South Australians aged 15 and over) found that within the survey sample:

- 9 per cent of SA indoor workers are exposed to passive smoking at their work station.
- Exposure is highest in the hospitality industry (27 per cent of restaurant, hotels and bar workers) are exposed to passive smoking at work.
- By contrast, only 1 per cent of all workers (and 5 per cent of all smokers) believe that smoking should be allowed anywhere at work.

GAMING MACHINES

In reply to **Hon. NICK XENOPHON** (8 May).

The Hon. T.G. ROBERTS: The Minister for Gambling has advised that:

1. The government has noted the report commissioned and funded by the Provincial Cities Association with some additional funding by the previous government. The report has adopted the Productivity Commission methodology applied in a regional context; hence the findings are dependent on the validity of that methodology. The Productivity Commission found that in total, the benefits to (recreational gamblers) outweighed the costs (losses of problem gamblers). For a specific sub-sector of the population (eg. Geographical area) any analysis of the difference between costs and benefits may well vary. However it needs to be established that a different set of gambling regulatory arrangements for some geographical areas as compared with others is a valid and feasible policy approach.

2. The Minister for Gambling has requested that the Independent Gambling Authority review the freeze on gaming machines and the report be tabled in parliament by the minister. The terms of reference were advised to the Independent Gambling Authority on 20 June 2002 with the Authority to report to the minister by 1 December 2002. The IGA must identify all practical options for the management of gaming machines, with particular attention to strategies to minimise gambling related harm. The IGA will consider the Provincial Cities Association report in that context.

The government announced on 11 July 2002 additional funding of $4 million over four years to the Gamblers Rehabilitation Fund (GRF). This funding will be used to provide a balanced range of prevention and rehabilitation services, including community education programs. Additional resources for face-to-face counselling will be allocated according to demand for services, and to improve access to services for those most in need.

ROAD SAFETY STRATEGY 2010

In reply to **Hon. DIANA LAIDLAW** (5 June).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information:

1. Will he acknowledge that the former Liberal government, through Transport SA, developed both a shoulder sealing strategy and an overtaking lanes strategy for the entire network of national highways and rural arterial roads in South Australia, together with a priority list of works for each Transport SA region?

While a shoulder sealing strategy and an overtaking lane strategy were developed by Transport SA, an implementation plan detailing the location and timing of construction is only now being developed.

2. With respect to the shoulder sealing strategy, will he also acknowledge that the former Liberal government, through the cabinet process, agreed to commit a total of $14.9 million in forward budget estimates to commence the implementation of this strategy, consisting of $3.4 million this financial year, $3.65 million in 2002-03, $3.9 million in 2003-04, and $4 million in 2004-05?

Funds were committed in treasury forward estimates for a program of shoulder sealing throughout the rural arterial road network. This program has been accelerated in 2003-03 with an additional $1.7 million to bring the total to $5.1 million, and a further $1.7 million is provided in 2003-04 and onwards to bring the total to $6.8 million per annum.

3. In relation to overtaking lanes, will the minister acknowledge that the former Liberal government, through the cabinet process, agreed to commit a total of $24 million, consisting of $6 million each year over the next four years (2001-02 to 2004-05), providing in all for the construction of 38 overtaking lanes on the rural arterial roads within the state over a five-year period from 2000-01?

Funds were committed in treasury forward estimates for a program of overtaking lanes. This program has been maintained at $6.0 million in 2002-03 and 2003-04, and $4.95 million in 2004-05. This completes the program at an estimated total investment of $25.5 million. The number of overtaking lanes in the program is dependent on variable constructions costs, and hence the total number of lanes can only be estimated.

4. Will the minister confirm that, at the very least, the above-mentioned sums provided by the former Liberal government in forward estimates to the year 2004-05 for both shoulder sealing works and overtaking lanes will be honoured in full by the Rann Labor Government and not cut as part of the government's average 2 per cent proposed cut to government agencies, other than, supposedly, health education and emergency services?

As previously indicated, and with this governments focus on road safety, investment in the shoulder sealing program will in fact significantly increase from the sum provided by the former government, whereas the overtaking lane program will be maintained at former levels.

JUSTICES OF THE PEACE

In reply to **Hon. D.W. RIDGWAY** (16 May).

The Hon. T.G. ROBERTS: The Attorney-General has advised of the following:

In June 2001 the Report on the Review on Justices of the Peace (JPs) concerning the enhancement of policy, procedural and training arrangements for JPs was released by the then Attorney-General for public comment.

As part of the review, Attorney-General the Hon. Trevor Griffin MLC requested a small group of representatives from the Attorney-General's Department, the Royal Association of Justices and Courts Administration Authority to coordinate the implementation of, and where appropriate advise on, the Review's 41 recommendations, including changes that have been made as well as changes that should be made to operational processes.

I accept that the current system makes it difficult for towns such as Padthaway and Mount Burr to have a working JP. I would like to overcome this difficulty.

Matters relating to the application and selection of JPs in rural and regional South Australia are being considered as part of the committee's report.

CRIMINAL INJURIES COMPENSATION

In reply to **Hon. J.F. STEFANI** (6 June).

The Hon. T.G. ROBERTS: The Attorney-General has advised the following information:

1. Bank account reconciliations for the years that you requested show the following closing cash balances: 1998-1999—$5 211.504.45; 1999-2000—$9 876 142.44; and, 2000-2001—$16 144 356.67.

2. The total number of victims of crime who received compensation for each of these years and the respective amount paid during each period were:

Year	Number of Claims Finalised	Amount Paid
1999	1 198	$9 921 320.84
2000	1 173	$8 735 052.75
2001	1 046	$7 027 598.64

3. The criminal injuries compensation fund consists of—

- the money provided by Parliament for the purposes of the fund; and
- the prescribed proportion (which is currently 20 percent) of the aggregate amount paid into General Revenue by way of fines; and
- any amount recovered by way of the levy, which is imposed on persons convicted of offences and persons who expiate offences; and
- any amount recovered under the Criminal Injuries Compensation Act 1978; and
- any amount paid into the fund in pursuance of any other Act, for example the Criminal Assets Confiscation Act 1996.

The total amounts collected and paid into the criminal injuries compensation fund for each of the years you mentioned were:

1998-99

Receipts:	
Levies on fines & penalties	4 447 808.00
Receipts from Offenders	670 019.65
Interest on Bank Balance	165 517.98
Confiscation of Profits	345 215.76
Appropriation	8 000 000.00
Other Receipts	480.00
	13 629 041.39

1999-2000

Receipts:	
Levies on fines & penalties	6 260 146.54
Receipts from Offenders	644 928.51
Interest on Bank Balance	171 820.92
Confiscation of Profits	541 152.85
Appropriation	8 000 000.00
Other Receipts	3 429.50
	15 621 478.32

2000-01

Receipts:	
Levies on fines & penalties	4 126 749.93
Receipts from Offenders	634 425.99
Interest on Bank Balance	781 975.63
Confiscation of Profits	783 035.75
Grants	91 700.00
Appropriation	8 200 000.00
Other Receipts	2 267.34
	14 620 154.64

The money identified as an appropriation for each year is the sum of the money provided by parliament and 20 per cent of the aggregate amount paid into general revenue by way of fines.

HIGHWAYS, NAMING

In reply to **Hon. J.S.L. DAWKINS** (28 May).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information:

1. Will the Minister indicate the results of the consultation process for these major roads?

As routes traverse a number of local government areas, it has generally not been easy to generate a fully unanimous response on all proposed names. The Birdseye Highway (B 91 Cowell-Cleve-Elliston) was an example of one route where all three local government authorities along the route, when approached in 2001, warmly supported the proposal. The Minster for Transport has agreed to the naming of the Birdseye Highway, which has recently been announced in a media release dated 26 July 2002. This announcement will be followed by the installation of appropriate road signing.

Other routes have involved a second round of consultation with local government during which the concerns of individual councils were addressed and unanimity secured. Examples are: Route B64, (the road from the Sturt Highway at Barmera/Monash through Morgan, Burra, Spalding, Gulnare and Narridy to Highway One near Crystal Brook) proposed as the Goyder Highway after the famous Surveyor General George W. Goyder; and Highway One (between Gepps Cross and Port Wakefield) proposed as the Wakefield Highway.

Consultation is still taking place with regard to two other routes in a first schedule of proposals canvassed with the Local Government Association in 2001. Route B57 (from the Old Sturt Highway near Berri via Loxton and Pinnaroo to the Dukes Highway near Bordertown) has been proposed and agreed to by councils as the Ngarkat Highway and that proposal is now being canvassed with Aboriginal heritage groups in the region. Route B55 (from Murray Bridge via Karoonda to Loxton) is being reviewed with councils following a proposal by one that the original name proposed, Karoonda Highway, be replaced by Stott Highway. This name would be after long serving independent MP for the region, the Hon Tom Stott. I understand that the Honourable Member originally suggested both of these names.

In addition, a number of roads in Outback SA have been considered for naming, two of which will be forwarded by Transport SA to the Minister for Transport for endorsement soon. They are the road between Cadney Park and the intersection with the Coober Pedy to Oodnadatta Road as the Painted Desert Road; and the Coober Pedy to William Creek Road as the William Creek Road. This follows consultation undertaken by the Outback Areas Community Development Trust on behalf of the working party.

Letters have recently been sent to local government authorities regarding a number of other routes. These are:

1. B89 between Port Pirie and Wallaroo: the Spencer Highway.
2. B85 between Port Wakefield and Wallaroo: the Copper Coast Highway.
3. B86 between Port Wakefield and Stenhouse Bay: the Yorke Highway.
4. B88 between Pine Point and Warooka: the St Vincent Highway.
5. B81 between Morgan and Gawler via Eudunda and Kapunda: the Thiele Highway after novelist Colin Thiele.
6. B78 (Jamestown to Hallett) or B79 from the Barrier Highway via Peterborough and Jamestown to Highway One near Warnertown): the Wilkins Highway after famous aviator, arctic explorer and war photographer Sir Hubert Wilkins.
7. C240 from Horsham through Edenhope to Naracoorte: it is proposed to complete the naming of this route as the Wimmera Highway on its South Australian section.

2. Is the Minister able to indicate when these routes will be given highway names?

It is hoped that the process for all fifteen highway names will be completed by the end of this calendar year.

3. Will the Minister indicate whether suggested highway names for other major routes in the State are still being considered?

The working party has considered many other possible names for a number of other routes beyond the fifteen indicated. However, the working party felt that strong and interesting names were not readily available. Consequently, the working party decided that it would be better to leave further routes unnamed until such time as strong candidate names emerge.

The working party is not a standing interagency group and regards the schedule of fifteen routes under consideration as a considerable addition to the list of named routes that presently exist in South Australia. Beyond that, as the working party has now substantially finished its task, it proposes to hold discussions with stakeholders, particularly the Local Government Association, to determine the future responsibility and process for identifying and selecting names for consideration by the Minister for Transport.

TEACHERS' ENTERPRISE BARGAIN

In reply to **Hon. R.I. LUCAS** (8 July).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

I refer the honourable member to the ministerial statement tabled by the Hon. K. Foley in the House of Assembly on the 8 July 2002.

This statement provided a detailed explanation of the total cost of the three year agreement and the cost over a four year period. Leave of the House was also granted to incorporate a table into Hansard which contained a concise breakdown of each component of the final offer covering the period from 2202-03 to 2005-06.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 22 August. Page 788.)

The Hon. D.W. RIDGWAY: As is traditional, I rise to support the Appropriation Bill. However, it saddens me to see that this new state government has turned its back on regional South Australia. It seems that this government thinks that this state stops at the tollgate at Gepps Cross. This deception and doublecrossing of rural South Australia started when the electors of Hammond were misled during the election campaign, followed by the very dodgy deal that was done with the member for Hammond.

In the weeks since 11 July, the contempt that the government has for regional South Australia has become clearer every day. The government intends to introduce a $300 charge for each perpetual lease without consultation with the people that this new charge may affect. This has been done with no understanding of perpetual leases. After eight years in opposition, one would assume that they would know what they are doing. Obviously not!

Then, of course, there are the increases in stamp duty. Because of the recent good times in rural South Australia, many houses now sell for more than $200 000. The problem is even greater with regard to farming properties. Farms have increased in size over the past 10 years or 20 years and I doubt whether a farm worth under $200 000 would now be viable. Therefore, every sale of property would be more than likely targeted by this increase.

Last week, the Hon. Paul Holloway, Minister for Agriculture, Food and Fisheries, answered a question asked by the Hon. Carmel Zollo on the subject of controlled traffic farming. The minister explained the benefits of this practice and said that the most beneficial outcome of controlled traffic farming is the improvement in soil structure, which reduces run-off because of the soil's ability to hold more water: the end result is improved yield, improved stability and sustainability for the farming system. Yet, in the 11 July budget, the FarmBis program was cut to the tune of $5 million which, with the loss of the dollar-for-dollar federal funding, equates to a $10 million cut to the program. FarmBis state planning chairman, David Jericho, said:

> FarmBis had been turned upside down by the state budget cuts making a reduction in grants from 75 per cent to 50 per cent of total course costs a necessity leading to an overhaul of the eligibility requirements.

As you can see, on the one hand the government is bragging about the latest research and on the other it is cutting programs for research in the farming community. I am not sure whether it really understands what it is trying to achieve. I also believe that there has been a $70 000 cut in research funding for the marine scale fishery. The fishing industry earned $469 million the year 2001 and it hardly seems fair or good sense to cut the research budget.

A reported record $5 billion export income was earned by the South Australian rural sector this year, with exports up by nearly $1 billion. It is, by far, the star performer in the South Australian economy. Incredibly, this has been ignored by the government, which has cut the primary industries budget by an incredible 12 per cent, down by $18.2 million. While there has been much rhetoric about the Economic Development Board and the need to restructure the South Australian economy, this government is either unaware of or has ignored this rapidly growing sector.

There are funding cuts to regional South Australia other than those directed to primary industries. Take schools, for example, which had capital works approved but abandoned. Capital works at the Angaston Primary School have been deferred; at Booleroo Centre they have been reduced from $2.5 million to $2 million; at Coromandel Valley Primary School, capital works have been deferred; at Ceduna Area School, capital works have been reduced from $5 million to $3.9 million; at Gawler Primary School capital works have been deferred; at Mawson Lakes they have been reduced from $15.6 million to $7.6 million; at Orroroo Area School they have been deferred; and at Willunga Primary School capital works have been cut from $6.2 million to $850 000. Coincidentally, there has been a corresponding increase in funding to the inner city schools.

The cuts continue. Look at the impact the cuts to HomeStart funding have had on aged care beds in regional South Australia. As members are aware, the HomeStart scheme for aged care beds was used to alleviate concerns over financing by providing low interest loans and, in some cases, interest-free loans. This ensured that the aged bed licences provided by the commonwealth were taken up, thereby easing pressure on our public hospitals. The government's health minister, Lea Stevens, said on ABC Radio that there is an aged care bed shortage of 475 and that the commonwealth government needs to make this a priority. The previous government, in conjunction with the commonwealth, had already made that a priority with the use of the HomeStart scheme, and now we are at risk of losing the 269 bed licences currently available in South Australia.

It is interesting to note that metropolitan hospitals have been given a 7.1 per cent increase for costs and country hospitals have been given only a 2.4 per cent increase. This is, clearly, discrimination against country hospitals and will put greater pressure on them. Using its own figures, Labor has planned to reduce the number of older people in country hospitals by 9 000 bed days, from 155 000 in 2001-02 to 146 000 in 2002-03. This will have a devastating effect on older people.

The combination of the reduced number of patients to be treated, a reduction in aged care funding and inadequate funding to meet inflation means that the Rann government is not just ignoring country health but harming it. Health services and care for the aged are probably the most important services in our country communities. Now these communities will suffer.

Funding for the regional roads program—they being roads of regional importance—has been slashed from $2.2 million to $700 000. Couple that with the massive reduction in the rural arterial program, down from $8.24 million to just $2.83 million. As I mentioned in a question shortly after the budget to the Hon. Terry Roberts, Minister for Regional Affairs, this cut has financially embarrassed a number of local councils that undertook capital works knowing that money was expected or, in some cases, borrowed against future funding. This certainly will not assist the ongoing regional development of this state.

The phasing out of the regional development infrastructure development fund of $16.5 million over the next three years is a prime example of the fact that the government really does not understand what it has done. This fund has supported projects which have led to the creation and retention of 2 611 jobs with new investment of nearly $497 million. I am sure that my colleague the Hon. Diana Laidlaw and, in fact, all of my colleagues share my disappointment at the government's

decision to cut the $2.7 million of funding for the upgrade of four regional theatres in the Riverland, Whyalla, Mount Gambier and Port Pirie. Is this an example of Labor funding its pet projects in the industry, such as the film festival, at the expense of regional South Australia?

Even the member for Giles has failed the test of standing up for her community in the upper gulf region. The Labor government has also hit the electorates of the Independent members Karlene Maywald and Rory McEwen. The arts in the country cannot be separated from arts in the city or from health and education. Clearly, Mike Rann's Labor government does not care about regional communities in South Australia. A review of the budget by the South Australian Farmers Federation states that the 2002-03 budget has been the most difficult budget to analyse. The South Australian Farmers Federation has discovered that the rural sector will suffer from losses in capital expenditure and capital works funding to the tune of around $38 million. As more details of this budget emerge, that figure, I am sure, will grow much larger.

The Labor leader, Mike Rann, stated in an interview on ABC Radio on 7 January 2002 that he would 'make country issues a real focus' and would commit to giving regional impact statements. This could not be further from the truth. I hope that this government eventually realises that South Australia is not confined to the metropolitan area. I support the bill.

The Hon. J. GAZZOLA: It is with pride that I rise to give my first address on an Appropriation Bill, which is Labor's first budget in almost a decade. It is pleasing to note the disciplined focus of a budget which concerns itself with sound financial management in its attack on the extravagance and waste of the previous government. This budget, as promised in the election campaign, implements Labor's commitment to priority initiatives through a taxation regime which is responsible and fair.

It was my fervent hope that the opposition in the council could offer something more positive than a further trawling of the barren argument that was offered by it in the other place. We and the public have seen members of the opposition and the former treasurer fulminating in lathers of mock righteous indignation when they have addressed the Treasurer's first budget. Hopefully, further debate in the council will not become another opportunity for members opposite to continue fishing for false controversy with hackneyed claims which, in reality, are sounding more and more like the burblings of political goldfish with memories to match. Perhaps the major concerns for members opposite, when the dust has settled, will be the final realisations that we are in government and they are not, and that the public has endorsed the budget.

It is a pity, though, that the opposition has not been better coordinated with its replies, which would have saved us from the repetitive and tedious nature of its fiscal liturgy. I must say, though, that there are several replies that are of great interest. I would like to reflect on the considered thoughts of the member for Bragg. The Liberal member in the other place has pointed out—quite correctly I might add, and this is a view with which all thoughtful critics would agree—that it is the right of any elected government to identify and determine its priorities as it sees fit. It was quite correct for the Treasurer to move moneys from one financial year to another.

To paraphrase what the member for Bragg said regarding the latter, the Treasurer's actions in this regard were neither novel nor tricky and, I would add, no more than what the opposition did when it was in government. I refer to the practice of the previous treasurer in the 2000-01 budget when he followed a similar path. So, when members of the opposition in the council talk on the Appropriation Bill, they will surely not, in the light of this reflection, have the front to accuse the government of hypocrisy.

We know and the opposition knows that the allocation of dividends as undertaken by the Treasurer has a precedent in the previous government's practice. If we want to use the language of the former treasurer, the Treasurer's so-called accounting trick is the former treasurer's accounting trick. If some malfeasance is implied then the government knows—as the opposition knows—that decisions by all treasurers are subject to the scrutiny of the Auditor-General.

However, the Treasurer did not retreat from this criticism in his defence of the current budget. Governments of both political persuasions have moved dividends from one year to the next. In the previous government's budget submissions for 2001-02, $194 million was brought in from the South Australian Asset Management Corporation, as were proceeds from the sale of public assets—which the then government said would be used to retire debt—as well as an additional $110 million from the South Australian Government Financing Authority to bolster the budget. As I said, the Treasurer acknowledged the carryover of expenditure, so for the previous treasurer to complain is a precious pot calling the kettle black.

I would like to acquaint the council with the views of independent experts on Labor's first budget for a decade. I do this mindful of my comments on the opposition's response to date, but also feeling the overwhelming but painful necessity to counter another anticipated flood of orthodoxy from the benches opposite. Mr Phillip Coorey in the *Advertiser* of 12 July said:

> This budget deserves plaudits for brave political decisions coupled with the noble ambitions of returning South Australia to a healthy fiscal position and a long-term plan to eradicate government borrowing.

Adelaide university economist, Cliff Walsh, after the release of the budget, said:

> I think it is probably the best budget that we have had since Stephen Baker's 1994. I mean, it's done the right things, it's got the public sector back into some sort of balance and it's done it while shifting priorities.

Business SA's Peter Vaughan on 12 July said that the budget is fiscally responsible, and economists, generally, have praised the budget. It is interesting to compare these opinions with that of Alan Woods, the economics editor for the *Australian*, a critic whom the opposition has used in support of its claims about the budget and who said of the former government's budgetary management:

> The former Liberal government, which first lost an inept premier and then power, would not win any prizes for fiscal management. The surpluses it produced were so close to zero as to be meaningless and had the bad habit of turning into deficits.

Prior to the introduction of the budget, this government found itself between a rock and a hard place. Clearly, health and education were in need of further assistance—something the opposition would acknowledge—and, clearly, money was needed to fund these priorities. We all know how treasurers feel about raising taxes. But, there were inherited cost pressures that clearly affected Labor's capacity to deliver its

budget strategy and deliver on these essential services, and other commitments and responsibilities.

These inherited and unavoidable cost pressures were minuted by the Under Treasurer and raised by the Treasurer when he introduced the Appropriation Bill. Members in the council are familiar with the Under Treasurer's appraisal of the inadequacies of the previous government's mid-year budget review and the government's selective taxation measures that were consequently required and implemented to meet these deficits and promised budget priorities.

One can sympathise with the problems faced by all state treasurers in a commonwealth context with regard to revenue raising, especially in less populous and ageing states like South Australia. These problems were discussed by the member for Enfield in the other place. His reflections are quite illuminating as to the constraints facing the Treasurer in formulating the budget. The member for Enfield examines—among many things—two areas targeted by the government, namely the increases in stamp duty on property and gaming machines tax. In regard to the former tax measure, he notes that it will impact only on the more expensive transactions and that it is payable only on the purchase of a property. This is not an annual tax and it will, for most, be an infrequent tax.

The gaming tax revenue increase is an issue that has generated, for the opposition and the big hotel operators, more heat than light. It is a good measure and it targets only those quite wealthy and relatively small numbers of venues. Many community and sports clubs will benefit from this—there are 76 of those—while around 292 small hotels will benefit. The general public—the majority who can least afford to bear the brunt of revenue increases—strongly support the changes to the gaming machines tax and endorse this measure.

The government has also raised money through CPI increases in fees and taxes but has been criticised for pursuing a practice that was regularly followed by the previous government. The former treasurer said of his government's increases under this formula in his last budget address that it is 'established policy'. The Rann Labor government has followed this established policy, as the former treasurer described it. This is what the former treasurer, the honourable member opposite, said in his budget address for 2000-01:

> Mr Speaker, this budget contains no new taxes. This budget contains no tax increases. In fact, this budget contains significant tax reductions.

I contend that an argument as to whether a CPI increase is a tax increase or not is a semantic exercise. It is a revenue-raising measure and the previous government also implemented it. To criticise the government for breaking a promise is hollow and hypocritical.

In my introduction, I referred to the budget priority areas of health and education, and I note and endorse the comments by both the Hon. Gail Gago and the Hon. Carmel Zollo on the sorry state of hospitals and education under the previous government, and the Treasurer's response in meeting these challenges. I realise that, at this stage of proceedings in the discussion, the last thing members on either side wish to hear is another marathon of statistics and counterclaim, so I wish to offer some anecdotal evidence as to the state of public education under the previous government.

It is a common perception among teachers that former ministers for education never supported their ministry and the teaching staff on the ground. Right or wrong, this is what they believed. Teachers felt that they were continually being opposed by the previous government. It took some two solid years of industrial agitation and bargaining by the union to wrap up an enterprise agreement with the previous government. The Rann Labor government delivered the latest agreement in about two months. This was achieved without major industrial action, and a majority of teachers—some 87 per cent, I believe—endorse the outcome and, importantly, the process of resolution. However, teachers here still lag behind the eastern states in their rates of pay and conditions, as they have always done, in one of the most demanding jobs around.

They know and the government knows that more needs to be done, and the budget has moved to address the decline under the previous government. The former treasurer—a past minister for education, I might add—said in his defence to the claim by the Under Treasurer and Treasurer that he had underfunded the present EB agreement, which the government has had to pick up, as follows:

> Part of that is that this government rolled over very quickly with its mates in the teachers union and gave them whatever they wanted plus a bit.

The substance of the former treasurer's claim is denied, but that is not being debated here. What is of interest is the former government's confrontational and insensitive attitude to teachers' fair and just claims, as represented by their union, and the former treasurer's arrogant belief in the primacy of Treasury when, clearly, there were equally real and pressing educational issues which have been met by this government and which the public has welcomed.

The arrogance with which the former treasurer and once minister for education, and the previous government, treated teachers did not escape teachers' notice. As a consequence, teacher morale plummeted, making a difficult job even more difficult. The former CEO for the previous government was given a job to do: bring in Partnerships 21 no matter what the cost. The principals who did not agree or did not bring their school communities into compliance were harangued and bullied regardless of the real issues and concerns they had about Partnerships 21 in general and its consequences for their schools in particular.

Some principals even signed up against, at times, the democratic will of the staff and the school community, because the fabric of public education was being eroded and, if the school had to go it alone, it might as well grab what incentives were being dangled in front of it. To be fair, other principals and school communities signed up to free themselves from the shackles of bureaucracy. The end result was a divided system and a divided staff—an unequal system. The situation is now being addressed by this government in its review of Partnerships 21.

Principals and school communities have welcomed the review, and there is a sense of goodwill in the school community towards this government. There is a sense in the community that the government is serious about repairing education and making it better. The former treasurer and the opposition keep trotting out their unimaginative rhetoric of broken promises and fiddling the books because they have nothing substantive to offer to the debate, whereas the government can attack with impunity the economic machinations of the previous government.

Let us examine the former government's track record. Prior to the 1997 election, the Olsen government promised never to sell ETSA. Much to the state's detriment, we know the sorry consequences of that broken promise. Also, the

previous Liberal premier was part of the team that designed NEMMCO and its market rules. Their budget promised $2 million a day, and real improvements were promised in health and education. The legacy is another story. What policy did the previous government embark upon? A feeding frenzy of government assets—a public policy of privatisation and big spending on supposed symbols of sound government, a bread and circuses approach (to mix metaphors) to government and public spending.

And how did the previous government's privatisation policy pan out? The sale of ETSA cost over $100 million in consultancy fees. What about the sale of the TAB? There was a piece of ideological righteousness if ever there was one. Here was a public asset employing some 500 people with a gross profit turnover of around $50 million to $60 million per annum. After its sale to the Queensland TAB, what did we get? We got the export of some 300 jobs to Queensland, redundancies to the tune of around $15.5 million, the loss of an annually performing asset to the government and the people of South Australia of around $23 million in its last year of operation (a record year) and a consultancy payout of some $7.5 million. We then learnt through an *Advertiser* report of 26 July that the former government inflated the sale price to hoodwink the public by making the sale look palatable.

What further consequences loom for the public purse in this clumsy, unnecessary and hidebound decision? The taxpayers of South Australia will have to fork out $15 million over the next three years to meet Queensland TAB's offer under this agreement. Also, throw in the possibility of an annual loss of $8 million in revenue and we have privatisation gone mad. Clearly, the buyers recognised the profitability of our TAB.

What about the other success stories: SA Water, the government's radio network, Hindmarsh stadium, the National Wine Centre and the value of public land given to the developers of Holdfast Shores? We have an opposition which still hypnotises itself with the mantra of fiscal competence. The incompetence of the previous government and the lack of transparency in its budget processes have been exposed in the other place. Throw in the demise of a minister, a premier and a deputy premier and we have economic management of a calibre equivalent to a Marx Brothers production 'A Day at the Treasury'.

In conclusion, I have heard people say out of a sense of desperation that they would accept a general levy of some sort if it would help. Well, Labor will not do that, but its budget has delivered improvements through careful reprioritisation and selected taxation from those who can most afford to pay. This is the most gain for the least pain. It is a widely accepted and responsible budget, and it delivers help where it is most needed. I commend the bill to the Legislative Council.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

ESSENTIAL SERVICES COMMISSION BILL

Adjourned debate on second reading.

(Continued from 22 August. Page 784.)

The Hon. M.J. ELLIOTT: The Democrats were opponents of the previous government's obsession with privatisation, and we support stronger industry regulation to protect consumers and companies from the excesses of the market place—if we can call it a market place at the moment. However, we would like to have seen addressed within this legislation greater consideration of the environmental and social interests of the community as well as economic interests.

This bill establishes an Essential Services Commission (ESC) to act as regulator, initially for the electricity, ports and rail industries but, in the coming months, the gas, water and sewerage industries will be included. The bill replaces the South Australian Independent Industry Regulator with a chairman of the ESC who can appoint commissioners to advise on the regulation of the industries involved. The bill also introduces a primary objective to protect the long-term interests of essential service consumers.

Some of the advantages of the bill are as follows: under clause 27, the maximum penalty is increased from $250 000 to $1 million, which is certainly more of a disincentive; clause 40 provides for a range of enforcement powers to be introduced to stop multiple small offences; and Part 7 provides for new procedures of reporting to promote transparency and allow inquiries. I will address a number questions during the second reading to give the government a chance to respond. If necessary, I will pursue them again during the committee stage. My questions are:

1. Clause 11(1)(a)—How will individual consumers contribute to the process and who selects which are prescribed bodies?

2. Clause 11(4)(b)—MOUs are established on the internet, but will other publications be available to the public through the internet?

3. Clause 23(1)—Will the minister release the performance plan and budget to the public or table it in parliament and, if not, why not?

4. Clause 10(6)(a)—There is a capacity to consult in relation to social and environmental costs, but is this advice binding in any way?

5. Clause 6(1)(b)—Why has a criterion in regard to the need for environmental impacts not been included, including mandatory standards? Why is there not a criterion to ensure that renewable and efficient services are protected from any competitive disadvantage?

I also indicate that I am giving some consideration to a possible amendment to clause 6(1)(a). The government's responsibility to the people of South Australia goes beyond just regulating price, supply and services and, if I do come up with an amendment, it will also look at the long-term interests in relation to social and environmental costs. The Democrats support the second reading.

The Hon. G.E. GAGO: The Labor government is about to bring to fruition one of its major election promises. The Essential Services Bill is of such importance to the government that it has been designated a bill of special importance, which means, as members know, that under prescribed circumstances this bill can act as a trigger for a dissolution of parliament. The reason why the current government has deemed it to be a bill of special importance is that the Labor government holds at the core of its values the principle of fairness. We believe that the provision of certain services is essential for the people of South Australia to carry out day-to-day activities and that every person is entitled to access those services at an affordable rate and of a certain quality and reliability.

The Labor government is committed to placing the public interest back into the regulation of essential services. There are certain services that the population relies upon to maintain both a decent standard of living and a healthy economy, and the supply of those services should not be left entirely to private enterprise to determine. Private enterprise, as we know, is motivated significantly by profit maximisation. At the last election we promised the South Australian public that we would address the appalling situation left by the previous government in relation to the supply of electricity. We promised that we would address the present situation, and we are.

For a start, we have called a halt to any further privatisation, because we believe that the provision of certain services is essential to the welfare of our state and that the best interests of our state are served by maintaining control over those services. Essential services should be of good quality, reliable and provided at a fair price. Both the health and wellbeing of our community and the vigour of our economy depend upon sound and reliable essential services. Privatisation of our electricity by the previous government was pursued as an end in itself, without proper cost benefit analysis or the full implications for our state being thoroughly investigated. The quest for privatisation was based on flawed presumptions, the first being that the provision of essential services would be more efficiently provided by the private than by the public sector.

It also presumed that privatising our electricity services would result in electricity price decreases. Clearly, they were wrong on both counts. We have been left with a very poor situation. A report on electricity retail pricing for 2000-01 shows that prices for both domestic and business electricity use in South Australia are the highest in our country and have risen by 35 per cent for domestic use over the past eight years. The Liberal government was quite happy to allow the price hikes to occur as it made our electricity industry more attractive to private sale, as the government was desperately trying to pawn it at the time. Since the privatisation of our electricity assets, we have seen further price rises and a private company with a monopoly on the domestic supply of essential service, not to mention the significant supply problems that we have been faced with from time to time.

There are many people hurting over the recent price increases in electricity. Both families and businesses are suffering, and we know that there is more to come. We are now placed in a position where we have to urgently put safeguards in place to protect our state's interests while at the same time trying to ensure that we attract further electricity investment into this state.

This bill will allow for the establishment of the Essential Services Commission as a powerful regulatory body for electricity, and we plan within the near future to include South Australia's other essential services. We propose at a later date to amend other relevant industry acts to include gas, ports, rail, water, sewerage etc., so that they will fall under the powers of the Essential Services Commission. This will allow the commission to protect the broader interests of South Australians. If passed, these bills will enable the Essential Services Commission to hold within its power the ability to investigate and enforce service standards within South Australia's essential services.

As of 1 January 2003, domestic customers and small business consumers with less than 160 megawatts per annum will be faced with another fundamental change in the way in which they can purchase their power. Full retail competition will be introduced, meaning that those smaller customers will be required to choose their power supplier. This may result yet again in another price rise for residential premises. An initial task of the Essential Services Commission will be to ensure that the interests of domestic consumers are protected through this process. The government, in establishing the Essential Services Commission, aims to protect the interests of consumers across the state in regard to the price, quality and reliability of electricity and other essential services that may eventually come under its regulation.

Its role will also include ensuring that the industry and business in our state remain competitive and viable whilst also guaranteeing effective coordination, transparency and efficiency in the general regulatory framework. The primary objective of the commission is to protect the long-term interests of South Australian consumers with respect to reliability, quality and affordability. These long-term interests include, as the bill provides:

> (vi) facilitate maintenance of the financial viability of regulated industries and the incentive for long-term investment.

As such, the bill requires that the commission take this, amongst other things, into consideration when making a determination in respect of the reasonableness of a price increase by the electricity retailer. Another important factor required of the commission whilst performing its functions is to prevent misuse of monopoly or market power. So, we can see that the regulatory scope of the commission is considerably enhanced by these additional objectives. This bill before us entrusts considerable powers into the hands of the Essential Services Commission, not least of which is the $1 million maximum fine to be paid by an electricity retailer for breaching a price determination made by the commission.

Other new and wide-ranging powers include the ability of the commissioner to issue warning notices and to receive guarantees from retailers that a notified violation will be rectified. An injunction in the courts can be sought by the commissioner, ministers and other people to demand that a provider undertake actions to rectify and identify violation. To assist with the planned expanded powers of investigation of the commission across a range of essential services, part-time commissioners may be appointed to provide additional industry expertise. These appointments will be made by the government in an attempt to broaden and complement the skills and knowledge of the commission.

The bill also gives the commission power to approve a new Essential Services Ombudsman, which enhances the current Electricity Ombudsman scheme and strengthens the complaints management provisions. I also draw attention to a bill that is complementary to the Essential Services Bill, that is, the Electricity (Miscellaneous) Amendment Bill. Although this bill is not before us at present it soon will be, and I do not intend to speak to that bill, but I believe it is important to highlight at this time that, if supported, it will further enhance the regulatory powers of the Essential Services Commission. The main element of the miscellaneous bill is to establish a safeguard that guarantees that AGL supplies power to all small customers upon the commencement of full retail competition.

It will also ensure that customers who move will continue to receive power supply. Among other things, it will empower the Essential Services Commission to enforce increased penalties. I cannot stress strongly enough the urgency of these bills. Full retail competition will be implemented from 1 January 2003. The electricity retailer AGL

will need to gazette its prices three months prior to this, which will mean by 1 October this year we need to have this commission in place. It is clearly in the interests of South Australians to have the Essential Services Commission established obviously prior to that but, clearly, as soon as possible. These bills endeavour to deliver on major election commitments given by this government to provide consumer protection by establishing a regulatory framework in relation to the price and delivery of essential services. I commend the bill.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their contributions to the debate. I was briefly out of the chamber when the Hon. Mike Elliott made his contribution but I will—

The Hon. M.J. Elliott: I asked a question and I want it answered during the committee stage.

The Hon. P. HOLLOWAY: I will give some preliminary information, then seek leave to continue my remarks later and provide those answers shortly. Some questions were asked by the Hon. Terry Cameron and the Leader of the Opposition. The Hon. Terry Cameron in the earlier debate on the bill sought additional information on the establishment of the Essential Services Commission. First, he noted that the bill does not specify how many commissioners will be appointed. I inform members that the introduction of the potential for additional commissioners was intended as a governance improvement measure compared with the current arrangements. The Essential Services Commission will have a commission chairperson, and there is a capacity to appoint part-time commissioners. Joint decision making by the commissioners can help to ensure good, consistent regulatory outcomes across all the regulated industries, as appropriate. The workload of the Essential Services Commission will be closely monitored to determine when additional commissioners should be appointed.

Secondly, the Hon. Terry Cameron asked what the government's intention was in relation to declaring other industries within the scope of the Essential Services Commission. The commission will subsume the South Australian independent Industry Regulator's current role as a regulator for electricity, ports and the Tarcoola to Darwin railway. Responsibility for regulation of the gas industry and oversight of the quality and reliability of water and sewerage services will be assigned to the commission through future changes to the appropriate industry legislation. The government is currently reviewing legislative amendments to the Gas Act 1997 in order to bring gas pricing and licensing regulatory functions within the ambit of the commission. These amendments will be tabled in parliament by the end of this year.

The Hon. Rob Lucas in his contribution raised a number of concerns relating to the advice the government has received since 5 March on potential price increases for small customers. The honourable member spent a good deal of time talking about the reports on predicted future price movements by IES and Price Waterhouse Coopers. I inform the council that the advice we received was to allow the regulator to gain access to the electricity retailer's books so that the retailer's actual costs could be examined to determine the reasonableness of its tariffs—which is what this bill and the associated Electricity (Miscellaneous) Amendment Bill provide.

Rather than rely on economic predictions based on numerous assumptions that may or may not prove correct, we have taken notice of the advice on possible price increases provided by AGL at an energy conference at the Hilton Hotel. While we will not automatically accept AGL's assertions—and AGL will need to justify any increase—we note that the Essential Services Commission will have the power it needs to assess the reasonableness of these claims. If the commission is not satisfied that the increases are justified, it will have the power to set prices directly.

I believe that answers the questions asked by the Hon. Terry Cameron and the Hon. Rob Lucas. I seek leave to conclude my remarks later, and I will come back later this afternoon with responses to the questions asked by the Hon. Mike Elliott. I also take this opportunity to thank the Hon. Gail Gago for her contribution to the debate.

Leave granted; debate adjourned.

ELECTRICITY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 August. Page 793.)

The Hon. M.J. ELLIOTT: There appears to be no reason to oppose this bill. The government is urgently wanting to get this bill passed this week so that the three-months clause can be met before contestability. The objectives of the bill are as follows:

- to ensure that AGL provides a set contract for all customers at contestability on 1 January 2003;
- to ensure that electricity retailers publish tariffs and justifications;
- to ensure that persons moving house or with outdated contracts still get electricity supply at a reasonable rate;
- to link penalties with those detailed in the Essential Services Commission Bill.

The most significant provisions are clause 10(5a), which covers people when contracts lapse; new section 36AB, which details the default contract; clause 11(d), which covers the provision of information on tariffs and the requirement to meet codes of conduct; clause 11(e) covers the exemption of big customers from the need to participate in the Ombudsman scheme for smaller customers; clause 17, which sets standard contracts for AGL; new section 36AA (the three months clause) which the government needs passed before the parliamentary break; and new section 63A(2), which outlines the relationship between the technical regulator and the Essential Services Commission so that price reliability and safety are covered. The Democrats support the second reading.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their contribution to the debate and their indication of support. In relation to questions raised during the debate, some issues were mentioned by the Hon. Rob Lucas which I answered in the previous debate. It is a pity that the leader is not here at the moment, because I am sure he would like to pursue these matters further.

Briefly, I will summarise the points that were raised. The Leader of the Opposition spent much of his time talking about the reports on predicted future price movements which had been made by IES and Price Waterhouse Coopers and which I understand the previous government had sought at some considerable expense. When the new government came to office, it believed that it should allow the regulator to gain access to the electricity retailer's books (that is, AGL's

books) so that the retailer's actual costs could be examined to determine the reasonableness of the tariffs. That is what this bill and the Essential Services Commission Bill are about.

As I understand it, there are some provisions in the Industry Regulator Act that do allow some potential for regulating prices in the retail sector. But it was the view of this government that we should be much more explicit in these two bills about those powers—and that is, of course, one of the main provisions within this bill. Rather than rely on economic predictions based on numerous assumptions that may or may not prove correct, as would be the case if we were to rely on those particular consultants' reports commissioned by the previous government, we have taken note of the advice on possible price increases publicly provided by AGL. While we will not automatically accept AGL's assertions (and AGL will need to justify any increase), we know that the Essential Services Commission will have the power it needs to assess the reasonableness of these claims. If the commission is not satisfied that the increases are justified, it will have the power to set prices directly.

I believe that that, essentially, addresses the key issues raised by the Leader of the Opposition in a fairly long debate. It appeared to me that the Leader of the Opposition seemed particularly concerned to try to justify his place in history, perhaps, rather than looking forward to the particular provisions in the electricity bill that is before us. I am sure that we will have plenty of opportunity during the committee stage to deal with that matter. I thank the members who have contributed to the bill. I guess that, when we return to the Essential Services Bill, we can have a detailed debate on the provisions of these two bills. Again, I thank members for their contributions.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: The Electricity (Miscellaneous) Amendment Bill and the Essential Services Commission Bill are companion bills. I believe that it would be appropriate for the committee to complete debate on the Essential Services Commission Bill prior to dealing with this bill. I indicate that, at this stage, I will move that progress be reported so that we can return to the committee stage after we have considered the companion bill, the Essential Services Commission Bill.

Progress reported; committee to sit again.

STATUTES AMENDMENT (STRUCTURED SETTLEMENTS) BILL

Adjourned debate on second reading.

(Continued from 20 August. Page 707.)

The Hon. A.J. REDFORD: I support the second reading of this bill, which enables courts to consider periodic payments of damages via the process of structured settlements. The bill has been enabled by the Taxation Laws Amendment (Structured Settlements) Bill 2002, which is a commonwealth bill giving a tax exemption for structured settlements. The bill before this place permits the courts, with the consent of the parties, to make awards via structured settlements. Indeed, this legislative amendment is a successor to section 30B of the Supreme Court Act, which gives the court power to make an interim assessment of damages. Section 30B(2)(b) of the Supreme Court Act 1935 provides:

> (2) It shall be lawful for the court when entering declaratory judgment and for any judge of the court at any time or times thereafter—
>
> (b) in addition to any such order or in lieu thereof, to order that the party held liable make periodic payments to the other party on account of the damages to be assessed during a stated period or until further order:

Section 30B(4) provides:

> Where the court adjourns assessment of damages under this section, it may order the party held liable to make such payment into court or to give such security for payment of damages when finally assessed as it deems just.

This enables the court to make these awards even in the absence of an agreement between the parties, notwithstanding that section 30B has been rarely used for a range of reasons. From the courts' perspective, they have been reluctant to make section 30B orders because of the courts' policy of endeavouring to finalise matters once and for all. I also suspect that long trial lists have had a part to play in this. In that sense, what happens is that, on many occasions, particularly where people suffer very serious injuries, by the time they get to court that long process has led to the litigants (or at least one of them) demanding that there be one single lump sum payment rather than repeated visits back to the court for further assessment of damages.

In this bill the provision, so far as the Supreme Court is concerned (and they are all identical, that is, those applying to the District and Magistrates courts), provides:

> In an action for damages for personal injury, the court may, with the consent of the parties, make an order for damages to be paid wholly or in part, in the form of periodic payments, by way of an annuity or otherwise, instead of in a lump sum.

It is important to note that an order can be made pursuant to this provision only where all the parties consent, and my experience in this jurisdiction is that that is not a common occurrence. It is particularly so when one considers the previous experience of section 30B of the Supreme Court Act. In fact, it is my suggestion that the provisions contained within this bill are even less likely to be used for the following reasons. First, long trial lists generally tend to push people into lump sums for the purpose of finalising the matter once and for all, although I do note that this bill would finalise the matter other than for the timing of when payments are or are not to be made.

Secondly, there is always that uncertainty or lack of guarantee of the solvency of defendants and/or their insurers. Indeed, the recent collapse of HIH Insurance and the major corporate collapses in the United States have probably led to an even greater uncertainty as to the longevity and sustainability of major corporations in our society; and, so, in those circumstances it is unlikely that, given a private defendant or a private insurer, the plaintiff advisers are likely to consent to an order made pursuant to this provision. The third issue is the effect that discount rates might have on the periodic payment or annuity.

The act or the bill is silent on that and, indeed, I think that is appropriate as the courts are probably better placed to make those assessments as to how they are to be applied on a case-by-case basis. Finally, people do like lump sums. Most people with whom I have had dealings are quite anxious to have their matters finalised by way of lump sums. Certainly, I would have to say that periodic payments under the WorkCover system are not all that popular. I do have some questions in relation to this. I am not looking to have answers prior to the passage of the bill. I am happy to await the answers in due course.

First, what impact will this bill have on the availability of insurance? Secondly, what impact will this bill have on premiums? Thirdly, how many section 30BA orders does the government expect will be made once this legislation is promulgated? These questions may or may not be capable of being answered with any definition, and certainly I would understand if the government gave qualified answers in relation to them. I must say that I have doubts that this part of the package will have a great effect on premiums and, indeed, I am not sure whether the insurance industry is making any such claims. I think that this provision is likely to be applied only, as the shadow attorney-general said, where the government is the defendant.

I think that a plaintiff properly advised would rarely consent to a section 30BA order. I also think that we might need to consider seriously the management of lump sums and the fact that we are excluding damages being awarded for the management of funds. We need to consider what impact that provision might have on this particular measure because it seems to me that we need to look at how some of these provisions work together. I make no criticism in that respect: it is something, in my view, that we need to monitor over a period of time and, indeed, it supports the position of the opposition that perhaps on these issues there ought to be continuing monitoring by the parliament to see how they work, what impact they have and whether the impact that does occur from this raft of legislation was predicted. I commend the bill.

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

PRICES (PROHIBITION ON RETURN OF UNSOLD BREAD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 August. Page 709.)

The Hon. R.D. LAWSON: The opposition is pleased to support this bill, which is in the same terms as a bill introduced last year by the Liberal government. The regulations under the Prices Act relating to the return of unsold bread were made in 1985. They separately prohibit the sale of bread by the retailer to the supplier and also the return of bread, whether or not financial relief or compensation was given to or received by the retailer.

As a result of an examination of those regulations which came up for renewal, the opinion was expressed that the regulation making power under the Prices Act may be insufficient to support the regulation. The 1985 regulations had operated well and were supported by the industry and, also, by government. Presently, section 51(2)(b) of the act provides that the Governor may make regulations to:

> prohibit any transaction or arrangement under which financial relief or compensation is directly or indirectly given or received in respect of bread that, having been supplied for sale by retail, is not sold by retail;

As I say, advice is that that regulation making power provides only dubious legal support for the regulations as made. The government decided that the appropriate way to overcome this difficulty is to leave the regulations as they are and have been since 1985 but to insert into the act a new regulation making power which, more specifically, provides support for the regulation already in existence. It is now proposed that section 51 of the act will have a separate regulation making power which will empower the Governor to make regulations to:

> (ba) prohibit the return of bread referred to in paragraph (b) to the supplier of the bread (whether or not financial relief or compensation is directly or indirectly given or received in respect of that bread);.

This measure will ensure that a practice which has continued for the benefit of the community for some years will continue. The opposition supports the bill.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank all honourable members for their indication of support for this bill. As indicated, it was introduced some time ago in the previous parliament before the election but, unfortunately, it was not dealt with at the time by both houses. However, it has now come back to us. I thank members for their indications of support.

Bill read a second time and taken through its remaining stages.

AIR TRANSPORT (ROUTE LICENSING—PASSENGER SERVICES) BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 740.)

The Hon. CAROLINE SCHAEFER: I support this bill, but I sound a word of warning that it goes nowhere near far enough towards alleviating the problem of supplying air services to regional South Australia. It seeks to bring stability to the industry—and I am sure that in many ways that will happen—by allowing the government to license routes and give confidence to business decisions made by regional airlines. This is no different from licensing bus routes in the city. It gives the operators of airlines some assurance that they will not have competition to the extent that they are forced out of the air. Generally speaking, if too many flights come into a small regional area, both the original licensee and the competitor end up being forced out for economic reasons.

Some of the routes will be declared for three years and can be extended for another three years. I assume that, after that time, the minister must retender. Charter services will be exempt and only scheduled routes will be regulated. As I say, this goes some way but, in my view, nowhere near far enough towards alleviating the ongoing problem of supplying air services.

My memory of flying in regional areas goes back to flying home from boarding school to Kimba, in the days when we were able to get home only three times a year, on a DC3—which ages both me and the aircraft. But, in those days—

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: No, I believe they traded in the Sopwith Camel in order to buy the DC3. My point is that aircraft of that size flew a long time ago, shall we say, and, since then, most of those airlines have been cancelled. I note the figures supplied by the Hon. Diana Laidlaw when she spoke last week and I think they are worth repeating because, although I do not know the details of all of these flights, I think I know why some of the figures do not gel. The passenger figures prior to the collapse of Ansett and pre-September 11, and post those same dates are: Port Lincoln, pre-collapse 832 and post-collapse 854 (so more people flew); Mount Gambier, from 612 down to 342; Whyalla lost 171 from 513 to 342; Olympic Dam, pre-collapse 337 and post-collapse 340; Ceduna, pre-collapse

152, and that figure remained the same; and Coober Pedy, pre-collapse 133 and post-collapse 76.

One would say that the good folk of Coober Pedy must have been absolutely terrified of flying after 11 September. However, I happen to know that what actually happened was that with the collapse of Ansett and the severe reining back of Kendell there were considerably fewer flights into and out of Coober Pedy. At one stage, in fact the entire air route was cancelled, as indeed it was for a short time into Olympic Dam. Port Lincoln picked up a number of average occupants per flight, and that was due to the collapse of the wonderful service that was previously run by Whyalla Airlines into Cleve and Wudinna, and prior to that into Cleve, Wudinna and Streaky Bay.

Most of the time, it was a pleasure flying, twice a week for five and half years, with Whyalla Airlines. I was deeply distressed at the great tragedy that took place. I knew a number of the people who were on that aircraft and I knew the pilot. I know the Brougham family, and I will be greatly relieved when the current inquiry is over because certainly the indications at this stage are that both that family and the pilot will be vindicated. I used to drive 110 km each Monday morning—or whenever I flew down—from where I live to Wudinna, then flew to Adelaide and repeated that on Friday when I went home. Had I not had access to that flight, I would have had to make that journey by road, driving myself, and, as we know, very often at the end of the parliamentary week we are quite tired. They supplied a very good service at a price that people could afford and, more importantly, they flew at times that were convenient to the people who live there.

It opened up access for professionals, be they health professionals, education professionals, business people, and officers from PIRSA who used that particular airline to work at the Minnipa Research Centre. It opened up the possibilities for professionals to visit the region which is quite isolated by road. From the other end there were several people who, like me, worked down in Adelaide four to five days a week and used that facility to fly back. This bill does not help those people. Unless they can be competitive, there is no measure in here that would allow that particular service to get back in the air, unless they can fully pay for it themselves. I believe the time will come again when they can, but what has tended to happen at the moment is that the airlines that have tried to fill that void have flown at times that suit them, rather than at times that suit their clients, and so there is the escalating problem of fewer people flying, therefore the aircraft can afford to fly less often, and eventually it becomes a self-fulfilling prophecy and the airline collapses.

The Hon. Diana Laidlaw spoke at some length about the need for some sort of subsidy within regional air routes. I know it sounds very strange coming from me and from this side of the council, but we have no compunction at all about subsidising public transport in the city to the value of millions of dollars. A subsidy is provided for regional airlines, as I understand it, in Western Australia and Queensland and, to a lesser degree, in regional New South Wales. I would have thought that it was possible in this legislation to at least have a look at a top-up system, so that if the aircraft is full—which, if it flies efficiently and often enough, I imagine it would be most of the time—there is no subsidy, but that there is a top up which ensures that the aircraft can fly regularly, even if it is not absolutely full on each occasion. As I say, this legislation was pre-empted by former minister for transport Hon. Diana Laidlaw. I think it moves some way down the path to stability for regional airlines, but my plea would be that just for once we have a look at working out where these services are most needed and applying some rationality to that.

What tends to happen is that we have two or three airlines flying into regional centres such as Whyalla or Port Lincoln. Currently, on Eyre Peninsula the only commercial flights are into Port Lincoln, Whyalla and Ceduna. Most people would know that that leaves a 200 to 300 kilometre drive for most people before they actually get to an aircraft. As I have said, you will notice that Port Lincoln increased by an average of 22 (I guess it is per month. I have not looked at what time that is over). The old Whyalla Airlines ran eight-seater planes, and I would venture to say that most of those plus 22 are people who would drive from Cleve, Cowell or somewhere like that to now fly out of Port Lincoln because the service is not provided to them more locally.

So, while I support this bill, I would ask the government to have a look at something that will provide a service that, as the Hon. Diana Laidlaw said, will keep people off the roads, will add a safety factor for people travelling long distances, will add to the health and comfort of those who need to get down here for medical appointments and will make it possible for professional people to visit that region.

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

CO-OPERATIVES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 667.)

The Hon. R.D. LAWSON: The Liberal opposition supports the Co-operatives (Miscellaneous) Amendment Bill. This bill will bring the law in this state, in relation to cooperatives, into line with the laws which apply in most other states. Queensland is the lead state in relation to the Co-operatives Act, and that state has already made these amendments, most of which are made to ensure that the law applying to cooperatives is consistent with the law relating to corporations and with the Corporations Act.

There are some who argue that cooperatives are an archaic form of business organisation and should be done away with. They argue that it wold be more appropriate for all business activities to be conducted through the means of a corporation, which is, of course, regulated by the Corporations Act. They argue that on the basis of simplicity for not only operators but also for regulators. However, the Liberal Party has always supported cooperatives as a separate form of corporate organisation which is peculiarly useful in the development of businesses in rural areas and involving rural and agricultural activities.

Notwithstanding the fact that we would not favour the abolition of cooperatives, we believe that the standards of corporate honesty and accountability, which apply to cooperatives, should be maintained at a very high level consistent with that applying to corporations. In relation to corporations, if standards are allowed to fall, in comparative terms, less scrupulous operators will seek to use the cooperative as a business structure to avoid the stringent requirements of the Corporations Act. This bill will maintain those high standards in relation to cooperatives and will also bring South

Australia into line with nationally agreed norms. We support the bill.

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

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 22 August. Page 794.)

The Hon. CARMEL ZOLLO: I add my support for this legislation, which is in response to wide consultation and is an attempt to provide a fair balance without total deregulation. Given the debate which has occurred in relation to this issue over many years, the government has rightly consulted with the Australian Retailers Association, the State Retailers Association, consumer representatives, company representatives from chain and department stores, Business SA, the Property Council, the Productivity Council and the Shop Distributive and Allied Employees' Association.

Like all members, I have received correspondence from Mr Stirling Griff, the Executive Director of the Australian Retailers Association, in which he indicates his support for the extension of shopping hours. Mr Griff made the pertinent comment that retailers want greater flexibility for longer trading hours to ensure that they meet public demand for their services—it is about being able to open and close according to customer demand. The legislation attempts to provide that greater flexibility. In addition, this bill offers some protection to workers from being compelled to work or open on Sundays. I am sure that none of us want to see a negative impact on the family life of our constituents working in the industry.

The bill will also provide for reduced 'compulsory' trading hours for tenants in shopping centres to about the same as presently exist. I understand that, although the overall number of hours shops can trade has increased, they will be protected from being forced to open all the hours available. As rightly pointed out by the Australian Retailers Association, it is important to protect the right of tenants to open and close according to customer demand but at the same time to recognise that they are part of a bigger picture and the culture of a large shopping centre.

There seems to be a consensus that the majority in our community do not want total deregulation—that, at least, is something we can agree on. I acknowledge that there is some view that extending shopping hours does not translate into a more buoyant economy because consumers spend more. On the contrary, some point out that costs may increase and, in the end, consumers will pay. However, this legislation does provide the flexibility for more convenient shopping hours for which I believe there is majority support.

The main aspect of the bill is to allow shop trading hours to be extended in the following way:

- Metropolitan shops to trade until 9 p.m. Monday to Friday.
- Metropolitan shops to trade from 11 a.m. to 5 p.m. on Sundays for five weekends before and after Christmas.
- Metropolitan electrical stores to trade from 11 a.m. to 5 p.m. on Sundays in the same way hardware and furniture stores now open.

This legislation is very much in response to changed community lifestyles and in recognition of the need to streamline the current law to remove confusion as well as to reform the current complex system of exemptions.

Both partners in most families are part of the work force. The option of opening until 9 p.m. in the metropolitan area will be welcomed. Thursday night shopping does not suit everyone. Particularly for families, Saturday is very much a day when children play sport, housework has to be done, people catch up with family and friends and gardening has to be done, etc. It is very much a busy day and the addition of shopping can make it even busier. It is also becoming more popular for people working back late to pick up food on the way home—food other than the fast food available now. The concept of the 'village' shops as well as the larger supermarkets is becoming more and more popular.

The summer of shopping will no doubt also be welcomed by many. Once again, it is very much a part of our lifestyle to go out, usually as part of a family, to browse and shop before Christmas and after Christmas for the sales. The summer period is also a time when we are likely to see more visitors to the state, and additional Sunday trading in the metropolitan area will be welcomed by them.

Electrical stores will now be able to open within the metropolitan area on Sunday on the same terms as currently apply to hardware and furniture shops. It obviously makes sense that consumers want to shop for electrical items in the same way they shop for furniture. It has reached the stage where some retailers have been openly flouting the law and opening in defiance. I note that breaches of the act will incur a significant penalty.

The hypocrisy of and division in the opposition is incredible. If there is one issue on which the community agrees, it is that we do not need another inquiry into shopping hours, least of all a parliamentary one. Suddenly, the Liberal Party is concerned about the workers in the industry! What hypocrisy, given the track record of the Brown and Olsen state governments and the Howard government.

I understand that the lead speaker in the other place spoke for over three hours on this bill. He either had trouble coming to the point or he and his party are still to come to the point. In short, they are confused and probably costing this state significant income. Indeed, I understand that competition payments of some $57 million for this state could be at risk. Today, in the other place, the Treasurer (who met with Mr Samuel from the National Competition Council last Friday) advised that he had received a letter today from Mr Samuel which states, in part:

> Dear Treasurer
>
> I refer to our recent discussion on this subject. I confirm that the council does not believe that it is in a position yet to make any recommendation to the federal Treasurer on 2002 and 2003 competition payments for South Australia because South Australia is still to implement reforms to its retail trading hours legislation. Accordingly, the council has deferred making a recommendation that payment should be made to South Australia until this matter has been resolved.

The Treasurer in the other place made the important point that we now have official advice from the National Competition Council that the $57 million will not be recommended by Mr Samuel to the federal Treasurer Peter Costello until such time as this parliament decides what it will do with the shopping hours legislation.

If the opposition wants to block the legislation or send it to a select committee, as they are suggesting, simply to frustrate the government's reform agenda, clearly up to $57 million is at risk—not a good state of affairs. A good note to finish on would be to quote Business SA chief

executive, Peter Vaughan, as reported in today's media, as follows:

> Business SA chief executive Peter Vaughan has appealed to Liberal MPs to support the changes offered by the government. 'Opposition Leader Rob Kerin says the Liberals are committed to retail reform but their call to refer the matter to a select committee will sound the death knell of this legislation,' he said.'They (committees) are notoriously slow to decide on anything. We believe they are the political graveyard for reform of this nature.'. . . Mr Vaughan said Business SA wanted deregulation but 'some reform is better than no reform. While Business SA believes it does not go far enough, we recognise that it is progress in the right direction that must be grasped by the state,' he said. 'The state cannot afford to stand still on this issue while the rest of the country forges ahead.'

I support this legislation and hope that the opposition will be able to do the same in the interests of the state.

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

ESSENTIAL SERVICES COMMISSION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 813.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I sought leave to conclude my remarks earlier so that I could get some answers to questions raised by the Hon. Mike Elliott, and I am now in a position to place those responses on record. During his contribution on the bill, the Hon. Mike Elliott first referred to clause 11(1)(a) of the bill and asked: how will individual consumers contribute to the process and who selects who are prescribed bodies? My advice is that the Regulator already has a Consumer Consultative Committee and the Regulator chooses the representatives on that committee. In regard to prescribing bodies, the government after consultation will prescribe the bodies. In addition, the Regulator uses an open consultative process for making determinations and any person can make submissions.

The Hon. Mike Elliott referred to clause 11(4)(b) and asked: MOUs are established on the internet but will other publications be available to the public through the internet? My advice is that it is the current Regulator's practice to place all documentation on the internet. As someone who was a regular visitor to that web site when I was in opposition, I can affirm that Lew Owens uses the web site very well. I think it is a particularly good web site, very informative, and he is prompt in placing documents on that site. So, it is certainly the current Regulator's practice to place all documentation on the internet and to provide hard copy publications, and I am advised that it is expected that this practice will continue.

The third question asked by the Hon. Mike Elliott related to clause 23(1) of the bill. The question was specifically: will the minister release the performance plan and budget to the public or table it in parliament and, if not, why not? I am advised that the requirement for a performance plan and budget is a step forward and provides a more transparent governance arrangement. There is no publication requirement in the bill. However, it is expected that the Essential Services Commission will report against this performance plan in its annual report, which is tabled in both houses of parliament. I refer the council to clause 39 of the bill, which refers to the annual reporting requirement.

The fourth question asked by the Hon. Mike Elliott related to clause 10(6)(a) and was: there is a capacity to consult in relation to social and environmental costs, but is this advice binding in any way? I am advised that the advice is not binding. The purpose of the consultation process is to ensure that all relevant issues are raised and, as such, can be considered by the appropriate agency, for example, the EPA, rather than risk having multiple agencies responsible for the same matters.

The fifth question asked by the Hon. Mike Elliott related to clause 6(1)(b) of the bill and was: why has a criterion in regard to the need for environmental impacts not been included, including mandatory standards? I am advised that, as mentioned in response to the previous question, other agencies have responsibility for these matters, and the consultation processes are designed to ensure that these matters are given timely attention by the appropriate agency and not by risking conflict between agencies. The Hon. Mike Elliott also asked: why is there not a criterion to ensure that renewable and efficient services are protected from any competitive disadvantage? This is a matter that is more appropriately dealt with by the government and not by the Regulator.

The Hon. Mike Elliott did indicate that he was giving some consideration to a possible amendment to clause 6(1)(a) and that he was considering amending the primary objective for protecting the long-term interests of South Australian consumers to expand it to include environmental and social issues. This could lead to a conflict between the Essential Services Commission and other agencies in terms of the matters properly considered by the Essential Services Commission. An example of that as given earlier would be the EPA which, obviously, has specific functions in relation to the environment. It would not be a good idea, I believe, to have objectives such that you have different agencies looking at the same thing and putting them in possible conflict.

I hope that those comments answer all the points that have been raised in relation to the debate. We will have the opportunity to consider matters further when we come to the committee stage, hopefully this evening.

Bill read a second time.

AIR TRANSPORT (ROUTE LICENSING—PASSENGER SERVICES) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 816.)

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank members for their advice on how to proceed. I thank those members who contributed to the second reading debate. We will move into committee and I will take questions from members on clause 2. I will then adjourn the matter and bring back the replies to the questions as we proceed in committee. I understand that the decision of the Democrats is to support this bill, even though they will not be making a contribution. I thank them for progressing the bill with the urgency that it requires. I will leave my summary to that and move into the committee stage.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. DIANA LAIDLAW: I thank the minister, who is taking the lead in this debate, for taking my advice in terms of how to proceed. My advice was that I am prepared to accept the answers to questions I asked during the second

reading debate and also the answers to the questions that I will pose on this clause at any stage during this week. If the minister does not have the answers this week, I prefer the bill to go through the third reading and receive a commitment from him that the answers will be provided and incorporated in *Hansard* at a later stage. If the minister can repeat that undertaking to me at some stage, I am pleased to take his word on that.

I am keen to facilitate this bill because, together with my Liberal colleagues, I consider this to be a vital piece of legislation although weak in parts. It is a vital measure which reflects a private members bill that was introduced in the other place by the shadow minister for transport (Hon. Malcolm Buckby) in May this year. I am very keen to see this bill progress. Therefore, I am prepared to cooperate in any way with the government, as long as my questions are answered and inserted in *Hansard* at some point, either later this week or when the session resumes.

I note that clause 26 provides for the making of regulations. Therefore, I wish to know the timetable for the proclamation of this bill. In asking that question, I stress again the importance the opposition places on this measure and my enthusiasm to advance the bill, notwithstanding the possibility that my questions will not be answered. I am keen to know about the government's program for drawing up the regulations and the proclamation of this measure.

In terms of bringing this bill into operation, has the minister at this stage received any informal or formal proposals from air operators indicating the routes in which they would be interested and which would give the minister encouragement to declare as routes for restricted access? Irrespective of whether or not the minister has received any such proposals from air transport operators, or indeed rural communities across South Australia that could benefit from the provision of limited access or restricted route access air services, has the government an agenda in mind as to which routes the minister will declare? If so, what is that agenda? If there is no such agenda, is the government prepared to work with local government, regional development boards and air operators to develop such an agenda and, in each instance, a timetable for the calling of expressions of interest and tenders for the operation of these restricted route services?

In relation to clause 4, the government has inserted in this bill a provision that was not incorporated in the private members bill introduced by the Hon. Malcolm Buckby in the other place. Clause 4 of the government's bill entitled 'Prescribed criteria' provides:

> (a) In making a decision under this Act as to the number of route service licences that should be awarded for a particular route, and to whom a route service licence should be awarded, the minister must take into account the following (insofar as the minister thinks appropriate and without limiting any other matter that the minister may consider relevant):

It then lists four criteria, including 'the public benefits that may accrue if air services are maintained or encouraged within the state'. My advice, and ultimately the decision of the Liberal Party as reflected in the private members bill, was that 'prescribed criteria' were both unnecessary and unhelpful in addressing the need for and the means by which to progress these declared routes.

Therefore, the private member's bill introduced by the Hon. Malcolm Buckby specifically did not provide any prescribed criteria that must apply before a route is declared. It was considered that the prescription of criteria may limit or prevent future policy initiatives or result in the bill's not catering for changing circumstances. Instead, our private member's bill (and, I note, also the government's bill) simply allowed the minister to act in the public interest, taking into account various matters, which were listed as clause 4 in the private member's bill and which are now listed as clause 5 in the government's bill.

I therefore want to ask the minister why, and on what advice, he has inserted clause 4 in relation to the prescribed criteria in addition to all the matters that are listed in clause 5 of the government bill under the heading of 'Declared routes'. Further, clause 5(1) provides:

> The minister may, by notice in the *Gazette*, declare a route between two airports in the state to be a declared route for the purposes of this act.

It then highlights the matters that this notice may include. Clause 5(3) provides that the minister must be satisfied that the route declared is in the public interest, and clause 5(4) provides that the minister, in connection with the operation of subclause (3), must also take into account a variety of matters, and other matters as the minister sees fit.

I have a number of questions in relation to clause 5 and the matters to which I have just referred. In view of all the matters in clause 4, the prescribed criteria, and all the measures that the minister must take account of in clause 5, plus the licence that he has provided in terms of taking into account other matters as he sees fit, how does the minister intend to give importance, or prominence, to these various areas? What will guide him in terms of all the matters—and there are many—plus his flexibility, or the provision for the minister to add subjective measures?

How will the minister give weight to these various provisions in the bill that he must take into account? Does he intend to give greater account to those that, in clause 5(4), he must take into account, than those that he is permitted to take into account as he thinks fit? Effectively, I wish to know whether these items provided in clauses 4 and 5, and the subjective matters, will be given a weighting formula and, if so, what weight will be given to each category? In terms of the transparency of the assessments for declaring routes, will this weighting category be made publicly available at the time the minister is calling for the tenders, or in terms of the annual report, which I note in clause 19 the minister must provide to the parliament in terms of the operation of this act?

I think it is very important that there is transparency and accountability in this matter. Much hinges on the minister's decision here, and the bill provides a lot of discretion for the minister in coming forward with criteria that have not even been identified in the bill; simply criteria that he thinks fit. I think it is very important for rural communities and for regional development to know what criteria the minister is using in these circumstances, and that those criteria be publicly available. I highlight and strongly stress this point not only for the merits of transparency but also, in particular, because in this bill the government has made no specific provision for the payment of subsidies. Therefore, if there is no provision for subsidy payments, one would suspect, or hope, that the government—or the minister, in particular—would be more positive, or give greater weight or greater licence and greater goodwill to the conditions and make it easier for a route to be declared and for expressions of interest and tenders to be called.

The opposite could apply, where the minister could be particularly harsh in the weightings given to these various matters, including the public interest. If he is harsh, we will

not know unless we see the weightings, and I am particularly concerned that, while we have such faith in this bill and its prospects for the provision of more air services to regional communities in South Australia, without subsidies, and with a harsh assessment by the minister of the categories that would give him heart to establish a declared route, we will have no gain from this bill. We will have a lot of wishful thinking and raised expectations, but we will have no gain for the communities: the bill will be a waste of time, and so will all the time that we spend in this place, and the officers' time, in promoting this measure.

In relation to the question of subsidies, this matter is one of the very big differences between the opposition's private member's bill and the government's bill. I note that in my second reading speech—

The Hon. T.G. Roberts: Are you a socialist?

The Hon. DIANA LAIDLAW: I am not a socialist; I am a realist. I know that Western Australia and Queensland, which have population bases and distances and dispersed communities like South Australia, have a restricted route service licensing system. But they cannot provide those services, even with restricted access, without a subsidy arrangement. So, I am a realist. As I said in my second reading speech (and I will not dwell on it at any length now), Western Australia and Queensland have had long practice with this legislation, and they know that the routes that they operate today on a restricted access basis could not operate without a subsidy.

The only other state in Australia that operates with similar restricted access legislation is New South Wales. It does not provide a subsidy, but it has a higher population in its regional centres than does South Australia, and it can support a regional air service if there is not competition on that service. Our difficulty here is that we, as in Queensland and Western Australia, may find that our population base and demand are such that we need an airline which faces no competition but which also operates in the public interest and with subsidies.

I wish to ask, reinforcing the matters I raised in my second reading contribution, why the minister and the government, knowing the experiences in Queensland and Western Australia and knowing the increase of money that both governments this financial year have invested in increased subsidies for restricted access services in those Labor-held states, have chosen not specifically to make provision for subsidy in this bill, a measure that the minister need not provide but must at least consider.

I repeat a matter that I raised in the second reading debate, namely, I note that the enabling provisions for a route service access regime in Queensland and Western Australia are incorporated in umbrella acts. In the instance of Queensland it is the Transport Operations Passenger Transport Act 1994, in the instance of Western Australia it is the Western Australian Transport Coordination Act and in New South Wales it is very specifically the Air Transport Act. The point I make here is that the states that provide a subsidy have acts that are relevant not just to air transport but to all transport in their state, including regional transport, and provide for subsidies as required for all modes of transport to remote communities where it is in the public and national interest that those services are provided but where they may not necessarily be able to operate on a commercial basis 365 days of the year.

We already know that that is the state of play for country buses in South Australia. Without concessions and other support measures we would, I suspect, lose two-thirds of our country bus services across South Australia for passenger purposes. We have provision through rail infrastructure acts for limited access for passenger and freight rail operations and provision for investment in those operations. I highlight the government's current commitment to an investment of $10 million in South Australian country rail and the standardisation of the track.

Some form of subsidy and financial support for the maintenance of regional transport operations in South Australia and across Australia is a normal practice. It is a matter of great concern to me that the government has specifically excluded in this bill—unlike the opposition's private member's bill—any reference to the minister's considering a subsidy if it is the final, last resort for maintaining air operations to country areas in the public interest. I ask that series of questions in addition to the questions I asked in my second reading contribution.

I am keen for my answers to be received this week before we break for six weeks, but if that does not happen I would be keen for the government to progress the passage of this bill, its assent and speedy proclamation so that, whatever hope is provided by this bill for the reinstatement of some country air services, or the continuation of other vulnerable services, we in this place are not seen as a cause for making other than a positive contribution to air service delivery in regional South Australia.

The Hon. T.G. ROBERTS: I will make a promise to the honourable member to provide answers to her questions. Hopefully, I will have them within a reasonable time. I understand that the request is that if we do not provide the answers within a reasonable time frame the honourable member will allow the progress of the bill, she will put her questions on notice and I will supply the answers at a later date. So, Mr Chairman, I ask that at this stage we report progress.

Progress reported; committee to sit again.

[Sitting suspended from 5.43 to 7.45 p.m.]

WRONGS (LIABILITY AND DAMAGES FOR PERSONAL INJURY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 August. Page 709.)

The Hon. A.J. REDFORD: This is part of a package of bills introduced by the government as its response—as opposed to part of a response—to the current insurance crisis concerning the availability of insurance and recent substantial premium hikes. Whilst I support the amendments, the government has failed to explain or make its case for the amendments, that is, what will be their impact? Notwithstanding that, it is clear that the crisis is such that, whatever the response, the government has a responsibility to address the issue and a responsibility to do so expeditiously.

In summary, the bill extends some of the modifications to the common law contained in Part 4 of the Motor Vehicles Act and Division 10 section 35A of the Wrongs Act which relate to damages payable for injuries suffered in motor vehicle accidents to general common law claims for personal injury. Whether the impact will be the same is problematical. Where someone is injured, a loss can fall in one of three places: first, on the injured person; secondly, on the person

or persons who actually caused the injury; or, thirdly, on the community. In relation to the latter, it can fall on the community in either of two ways: first, through the state via means such as social security or other devices which are ultimately funded by the taxpayer; or, secondly, through the private sector or, in some cases, the public sector through insurance premiums.

The overall cost of injury or personal injuries arising from accidents is determined by two factors: first, the incidence of accidents or events; and, secondly, the extent of the damage. In relation to the first of those factors, the way in which they can be managed and have been managed under the WorkCover legislation is through prevention or, in the context of work injuries, through occupational health and safety. In relation to the second factor—that is, the extent of damage—that can be dealt with through a process of claims management or rehabilitation or appropriate medical intervention.

This bill essentially deals with where the losses fall, that is, on the injured party or on the person causing the injury or on the community, either through the taxpayer or through insurance premiums. However, it ignores, as does the rest of the government package, issues concerning the overall cost, that is, the incidence of accidents and/or events and the extent of the damage. Indeed, that is extraordinarily disappointing given that the Labor Party—not this government—has always been very strong on those issues in the past, particularly in the decade before its demise in 1993. In fact, the record of this government stands in stark contrast on this issue with the record of the Bannon government and, in particular, some of the initiatives adopted through Jack Wright, the then Deputy Premier, and through Mr Blevins, who subsequently became Deputy Premier.

The bill deals with two things—first, the issue of damages, and I will list what it does in so far as affecting what the common law does in relation to damages:

(a) It provides a threshold before damages can be awarded for non-economic loss—new section 24B—which shifts the loss from the insurer and/or the community and/or the person who caused the loss to the victim.

(b) It provides a formula for assessment of damages for non-economic loss and puts a cap on it, pursuant to new section 24. Again, that shifts the cost from the community through the taxpayer and/or the insurer and/or the person who caused the injury onto the victim.

(c) It changes the basis upon which nervous shock damages can be awarded. Again, it has exactly the same effect in terms of shifting where the loss falls.

(d) It provides for self-insurance for the first week of economic loss and an upper limit of $2.2 million in relation to economic loss. Again, that is a shift from the payment by the community and/or the insurer and/or the person who caused the loss to the victim.

(e) It prescribes a discount rate for the assessment of future economic loss.

(f) It excludes interest on non-economic awards.

(g) It excludes damages for the cost of management or investment of funds that a person may have awarded to them as a consequence of a court order.

(h) It restricts the awards for the provision of gratuitous services—again, a shift from responsibility on the part of the community through either the taxpayer or the insurance company and/or the person who caused the injury onto the victim.

So, in a sense, on at least six out of the eight criteria, there has been a shift in who bears the loss directly towards the victim. In relation to the other two—that is, the discount rate and the exclusion of interest on non-economic awards—in my assessment I have come to the conclusion that it is hard to tell whether there has been any real shift as to who may or may not be responsible.

In relation to the second aspect of the bill, it purports to change the law in relation to how liability is determined, and there are four principal measures by which it seeks to do that. First, where criminal offences occur, it shifts the liability onto the victim, and I use the word 'victim' advisedly in this context because, if there has been some criminal offence on the victim's part, perhaps they are no longer a victim, but I use that terminology for consistency. The same occurs where intoxication or consumption of alcohol has been part of the process. The third is the failure to wear a seatbelt and the fourth is an evidentiary provision in relation to the consumption of alcohol.

I have to say that all of the changes to the law, so far as liability is concerned, are, in my view, matters of common sense. In fact, it is my view that if we had had the luxury of allowing the common law to use common sense—if I can use that term—then I suspect that that is where the common law would have headed, in any event. My concerns are what we do, as a parliament, in relation to shifting this impact of injury onto the victim in a cold and calculatedly clear way. I can well understand that the policy of the parliament, and the policy of the government, will be to make that shift of loss onto the victim because of the enormous problems that failure to secure insurance, either at all or at a reasonable price, will have on the way in which normal human endeavour is conducted in society.

However, I am extraordinarily concerned that the Treasurer, in this case, has completely failed to provide any other mechanisms to deal with some of these issues, in particular, the shift to the victim. In a sense, I think the total failure on the part of this government to address the overall cost of injury from any accident, whether it be motor vehicle, something that occurs out in the community or associated with the workplace, is lamentable, to say the least.

In any event, I do have a number of questions. In the case of each of these headings, (a) to (h), as I referred to them earlier in my debate, I would be grateful if the Treasurer could disclose what impact each of those measures will have on premiums arising from the changes in the rules which apply to the awarding of damages. I acknowledge that it may well be difficult for the Treasurer to give a definitive answer, but I would like him to go on the record as to what effect and what impact these measures will have, because it is only through the answer to that question that I can hold him accountable. I know that he is the sort of Treasurer who would want to have the opportunity to be held accountable.

Secondly, I ask him in respect of each of the items, (a) to (h), what impact have previous legislative amendments to the same effect had on the motor accident scheme? I ask that because the response will give us a clear understanding as to what monetary impact there has been in a known market, that is, the motor accident scheme. I know that this bill has to be dealt with expeditiously, but I would also be grateful if the Treasurer would table all correspondence that has taken place between himself and the insurers. In particular, I am interested to know what claims the insurance industry has made in relation to the effect on premiums that these measures will deliver, if any.

I say that because I think that the insurance industry, when coming to the parliament, has an important responsibility to justify legislative change. In the case of this series of legislative amendments the evidence on the ground is thin. There may well be evidence out there, but certainly none that has been provided to me, as an ordinary, humble back-bencher, and it is in that context that the Treasurer should provide that documentation.

I also ask that the Treasurer provide us with all documentary requests, either by letter or other document, of any insurers, or anyone representing them, of any required legislative or any other change. Further, I would be grateful if the Treasurer could provide us with a copy of any written questions or queries regarding claims made by the insurance industry about the impact of this raft of measures on premiums. I do that knowing that the Treasurer has said on many occasions that this is an open and accountable government, and on that basis I will take him at his word. So, I look forward to the Treasurer's tabling all of those documents so that we in this place, when confronted in the future with another set of amendments that shift the consequences of accidents onto victims, can make a better informed decision about those who make those claims, if that eventuality should arise.

I must say that this bill deals only with personal injury and there is nothing in this raft of legislation that deals with other areas such as property loss. I would be interested to know whether or not the Treasurer has any plans to bring in any legislation that may affect the way in which the common law operates, insofar as property loss is concerned. I also ask for the Treasurer's comments on the impact of new section 24N. New section 24N is headed:

> How case is dealt with where damages are liable to reduction on account of contributory negligence.

Mr President, you may recall that not so long ago there was a well-known case decided in the High Court, known as Astley's case. Just to refresh the memories of members—and I am sure the Treasurer would be right across this case—Astley was a solicitor in a legal firm known as Finlaysons. It was alleged that he acted negligently in his involvement in the provision of advice insofar as the signing of certain financial documents was concerned. It was subsequently held by the court that Mr Astley was negligent. It was also held by the court that his client had also been negligent and, as a consequence, the court did what I, as a member of the legal profession, and many others would assume would be normal, and applied an apportionment of damages. I cannot remember the actual percentage, but the damages awarded to the plaintiff were reduced by a percentage, reflecting the plaintiff's own negligence in the case.

The plaintiff in that case did not like that and took the matter all the way to the High Court. Despite the long-standing practice—over decades—of the courts in South Australia reducing damages, the High Court decided that because the case was couched in terms of a breach of statutory duty or a breach of contractual duty—that is, that Mr Astley owed a duty to his client not to be negligent—the normal provisions regarding contributory negligence did not apply. It therefore overturned the finding of contributory negligence on the part of the plaintiff and awarded the plaintiff 100 per cent of damages. I know that the former attorney-general, the Hon. Trevor Griffin, endeavoured to deal with that. I would be grateful if I could receive an assurance from the Treasurer—and I know he is learned in the law—that we are not going to have a repeat of the Astley situation, insofar as new section 24N is concerned.

Another issue I raise is in relation to the legal profession. I disclose that I am a member of that profession and have been involved in some litigation, although in the past financial year I earned no income at all from the retention of my practising certificate. Perhaps being a member of parliament has given me a bad legal name. In any event, I disclose that information.

The legal profession has been left pretty much unscathed by this raft of legislation, and that may well be appropriate. However, I increasingly hear of situations where lawyers purporting to act in the best interests of clients are taking the bulk of damages awards. I can understand that there may well be occasions where that is appropriate; for example, a client may have a penchant for ringing his or her lawyer on a minute by minute basis, making them chase rabbits down burrows that are unnecessary or, indeed, instructing the lawyer to do things which are totally unnecessary. Quite clearly, in that situation the client should have to pay for that service, which would impact on the percentage paid for costs in so far as the total damages award is concerned. I use that as just one example. There may well be other cases that arise that cause some degree of complexity.

However, I am receiving more and more complaints about the legal profession (and it gives me no cause for pride conceding this) taking significant sums of money out of damages awards. I wonder whether the government would consider—because I am sure that there will be another round of this type of legislation—the issue of transparency. If lawyers were required to file in the Supreme Court what their fees were in relation to each claim and that information were made available to the public—particularly to academics, consumer people and the like and, indeed, members of parliament—perhaps we could make a more informed assessment about whether the legal profession is behaving in an appropriate fashion in so far as the payment and the taking of costs is concerned relative to the size of the damages award.

I earnestly think that this is an issue we need to seriously look at. If we do not, another piece of legislation will be introduced dealing with unfair and inappropriate legal fees and, like today, we will be asked to make decisions in the absence of all the evidence. I therefore urge the government to seriously consider that point. I do not think that it would involve very much effort. At the end of a matter, for example, the lawyer would simply send in a statement signed by him, setting out his total legal charges, the total damages award and whether they were made by consent, through a settlement or by court order. In that way, the evidence would not be as anecdotal.

In any event, I support the bill, but it is disappointing that the government has looked at only one small aspect of this difficult area. I hope that the Treasurer will swallow his pride somewhat, actually read a contribution made in this place and come back with some constructive response, unlike some of the form that he has shown in the place. I commend the bill to the council.

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

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) (REFERENDUM) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 754.)

The Hon. J.F. STEFANI: I indicate my support for the second reading of this bill. In so doing, I flag that my support for the third reading is conditional upon the amendment filed and circulated under my name receiving the necessary support of the majority of members in this chamber.

There is no doubt that the majority of South Australians do not want their state to become the rubbish dump for Australia's nuclear waste. In the past, this position has been predicated by successive state premiers, health ministers and environment ministers. A public position has also been taken by the various opposition leaders and shadow ministers with responsibility for this portfolio matter. It is interesting to note that an Australia-wide selection study for a suitable site to store nuclear waste first began in 1992.

It is also important to mention that on 21 October 1991 the Hon. Don Hopgood (the then deputy premier and minister for health) wrote to the Hon. Simon Crean MP (the then federal minister of primary industries and energy) acknowledging the South Australian government's concurrence for the need to establish radioactive waste disposal facilities in Australia. The letter further confirmed that South Australian officials would continue to take part in the desk study process with a view to preparing a short list of suitable sites for further discussion between the commonwealth and state governments. The communication also reaffirmed that South Australia had been represented on the Commonwealth-State Consultative Committee since its inception and would continue into the future.

Through the Freedom of Information legislation, I sought to obtain copies of correspondence transmitted between the state and federal governments from 1982 to 1992. Unfortunately, I was advised that this information could not be released because of the provision of section 19 of the Radiation Protection and Control Act. I sought this information to determine whether any binding agreements were reached between the federal and state governments on this issue.

I now wish to deal with the important perception that has been established both at a national and international level where South Australia is considered to be a premium producer of quality food products in a clean and green environment. This important image must be protected at all costs because of the huge export earnings which are generated through the overseas sales of our products. Any suggestion or perception that South Australia may become the nuclear waste dump for Australia could easily damage our overseas image, with disastrous effects on our exports.

In carefully considering my position in relation to this legislation, I have attempted to formulate a constructive approach to this important issue which has been the subject of much public debate and will continue to do so in the future. I am pleased to note that since my first meeting with ministerial staff, who provided me with a briefing on the legislation, the minister has acted to identify the location where low level and short-lived intermediate level nuclear waste is currently stored in South Australia.

In fact, this is one of my suggestions in relation to the actions which the state government should be taking. I also suggest that it is important for the state government to conduct an accurate stocktake of the low level and short-lived intermediate level nuclear waste presently stored throughout South Australia so that an appropriate assessment can be made in relation to its future relocation to a central repository. I believe that the minister has commissioned an accurate inventory to be undertaken of the nuclear waste material.

I am confident that the majority of South Australians would be supportive of the concept that the state government should undertake the responsibility of locating a suitable site for the storage of all nuclear waste material generated in South Australia and which is currently stored in numerous locations. I understand that there is a willingness by all state governments to undertake the individual responsibility for the storage of their own radioactive waste material generated in the past and that generated in the future.

This concept may not necessarily appeal to the federal government which, as we all recognise, has the authority to override the state's powers. In considering the possibility that the state government will commission an expert study to identify a suitable site within our state for the construction of an appropriate storage repository for the low-level and short-lived intermediate-level radioactive waste that has been generated and will be generated in the future in South Australia, it would be logical that such a storage facility might be located in an area that is not so remote as to require the transportation of the waste over a long distance. I make this observation because of the possibility of a road accident during transportation, which could have disastrous environmental consequences and create dangers for other people.

In arriving at the decision to support the bill, I have done so with a clear understanding that my support would be conditional on the government's holding a referendum away from the atmosphere of a federal election and within a time frame that would give South Australians the opportunity to clearly express their views in relation to any decision that the federal government may take about the storage or disposal of long-lived intermediate or high-level nuclear waste generated outside South Australia. This is an important principle that the state government must recognise, because it is my view that a referendum must be held within six months of the minister's receiving or becoming aware of the information that indicates or suggests that a location within this state is the commonwealth government's preferred site for the establishment of a nuclear waste storage facility.

In determining my position on this issue, I have given due consideration to the notion that, if the state government were to hold a referendum during a federal election, as has been proposed by the present form of the bill, then such proposal could clearly be interpreted only as a political manoeuvre that would be effected after the horse has bolted, because by then the federal government would have made its decision and applied for and obtained the necessary licence to build a nuclear storage facility in South Australia. I support the second reading of the bill.

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

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 818.)

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. R.D. LAWSON: In speaking on this bill, I indicate at the outset that I have given the contingent notice of motion that is on the *Notice Paper* that, contingently upon this bill being read a second time, I will be moving that it be referred to a select committee with power to consider new clauses in relation to the amendment of the Industrial and Employee Relations Act and the Retail and Commercial Leases Act, and to report on the economic and industrial impact of the bill on both employers and employees. I will also be moving that that committee report on Wednesday 16 October 2002, that being the first Wednesday after this week upon which the council will be sitting.

It is the desire of the opposition to have a select committee examine a number of issues that I will refer to. They are discrete issues; they are issues that can be dealt with not only expeditiously but thoroughly in the time available. I am sure that, with the cooperation of members of the committee, including government members, the select committee will be able to discharge its responsibilities and, whilst it is not appropriate to pre-empt what the results of the select committee will be, I hazard a guess that this bill will be improved as a result of the inquiries of the proposed select committee. I turn now to the second reading explanation with which the bill was introduced.

It is claimed that this bill has been developed after 'continuous and extensive consultation with all relevant stakeholders', and a number of organisations are listed, the last of which is the Shop Distributive and Allied Employees Association. I imagine that is, from the government's point of view, in reverse order of importance, because it is very clear that the hand of the Shop Distributive and Allied Employees Association is all over these proposed amendments. The bill was described variously, in the second reading explanation and also both within and outside the parliament by the Minister for Industrial Relations and also I think by the Treasurer, as a balanced proposal; it strikes a reasonable balance; it is merely a modest proposal; it is a moderate package.

True it is that those words might aptly be used to describe the measure but, notwithstanding its modesty, this measure does have a significant effect on a number of sections of the community. This parliament owes it to those interests, as well as the interests of the major players who have been discussing the issue with the government for some time, to have their interests taken into account. The opposition accepts that there are many vested interests in shop trading hours, not only the unions but also the large and small retailers, large and small business, business organisations, employees, families and consumers. The interests of the consumers are frequently overlooked. It is interesting to note that the list of some 10 so-called stakeholders referred to in the second reading explanation does not include any representative of the consumers.

Notwithstanding the fact that there are players who have vested interests, and no-one entirely disinterested is being consulted, as legislators we in this parliament do have a duty to the public interest and we cannot overlook the interests of consumers; nor can we overlook the interests of small business whose voice is frequently not heard in matters of this kind. It behoves this parliament and this council to consider the legitimate interests of all parties. Notwithstanding the claim that there has been continuous and extensive consultation, the opposition would regard that as an empty claim. There have been consultation, negotiation and deal making, but true consultation is certainly, in a couple of respects, absent from this measure.

The second reading explanation states that the bill retains protection from unfair practices by landlords for small retailers in the sector through complementary amendments to the Retail and Commercial Leases Act. The effect of those amendments is to protect retail tenants in enclosed shopping centres from being required to open more than 55 hours per week or on any Sunday. It is claimed that the industry says that 54 hours per week relates to the current hours that most shops trade in South Australia. That is an important protection, and one that is certainly worthwhile, but there is no consideration or examination of provisions that do currently exist in the legislation of some other states which give added protection to the tenants of enclosed shopping centres. The power of landlords in enclosed shopping centres is immense when compared with the power of small tenants, certainly in negotiating renewals of leases and the like. The capacity for retribution by large shopping centre owners against small tenants is also considerable.

We envisage that the select committee to be appointed will examine some of those measures which exist in other states and which give added protection. This is a significant opportunity at this moment to ensure that those protections are put in. If they are not put in now, it is unlikely they will be at any time in the future. The large retailers, very clearly, want this bill to be passed. Very clearly, they want this extension of trading hours. This the moment at which the parliament has a historic opportunity to ensure that, while the large shopping centre owners will get part of what they want, at the same time smaller tenants in those centres will also receive a measure of protection.

Another feature for which this bill is notable by its omission is addressing issues concerning the industrial situation. Presently, as is well known, the major retailers—Coles Myer, Woolworths and other national operators—have the benefit of national enterprise agreements which they have negotiated with the relevant unions. Those agreements do provide benefits to workers, as well as to the companies. However, the benefit of provisions of that kind are not readily available to small businesses. Certainly, they are not available to businesses with fewer than, say, five employees. While technically it is possible for such a business to enter into an enterprise agreement with its workers, in a practical sense the expense of going through the processes, which are necessarily complex, of having an enterprise agreement registered, are such that despite all the encouragement offered by governments it is simply not feasible for them to have an enterprise agreement.

The effect is that we do not have a level playing field, especially when trading on Sundays. True it is that this bill will not permit trading on every Sunday throughout the year, but it is an additional five Sundays, that is, extending Sunday trading for quite some considerable time. They are doubling the number of Sundays available. This is the one opportunity, I submit, that this parliament will have to examine what can be done to ensure that there is a relatively level playing field between the large employers and the small employers in relation to industrial terms and conditions, in particular the overtime and penalty rates which are payable presently under the South Australian Retail Award, which would govern most small businesses in this state and which put those businesses on less than a level playing field.

It is said also in the second reading explanation that another key feature of the bill is the significant increase in penalties for those retailers who seek to break the law to trade outside the confines of the act. That passage must have been written by a humorist—and not a very good humorist. This bill provides the one company that threatened to break the law with a law that permits it to trade. Harvey Norman, and Mr Norman, made it very clear that its store in Mount Gambier is prepared to trade in defiance of the law. That company has been rewarded by the proposal put forward in this bill. It is interesting that a company such as Coles Myer, which operates K-Mart stores in Adelaide in accordance with the Shop Trading Hours Act, has not defied the law.

It complained—and I think it is a legitimate ground of complaint—that it cannot open its stores on Sunday and that it has always abided by the law. It complained that Harvey Norman, on the other hand, by threatening and, in the case of Mount Gambier, breaking the law has been rewarded. It will be able to trade every Sunday of the year yet Coles Myer cannot open its stores. It might be true in a technical sense to suggest that there is a significant increase in the penalties for retailers, but this bill rewards the company—and that is not the only company—that has indicated it is not prepared to comply with the law laid down by this parliament.

There are a number of technical measures in the bill which, as a former minister for workplace relations who had responsibility for administering this act for a time, I would welcome, because the things such as prohibition notices and simplifying some of the procedures is something that the opposition would certainly welcome. They are matters which I do not believe would even be considered by the select committee which, as I indicated when I read out its terms of reference, will be limited to some specific points.

It is interesting to note that the provision in section 15(1), which allows the shopkeeper of a shop situated in a shopping district outside the metropolitan area to sell goods to a person who resides at least eight kilometres from the shop, is to be removed. Mr President, because you come from this part of South Australia, you might be aware that, certainly, in Clare, a substantial supermarket that would not ordinarily be entitled to trade out of standard hours has been using that loophole, notwithstanding strictures from the government and the department for some time. There will be no opposition from the Liberal Party to the eradication of anomalies of that kind. The second reading explanation continues:

> The government has indicated publicly this moderate package of reform is to be introduced on a trial basis.

That is one of the big selling points that both the minister and the government have been putting out to the community: 'This is only a trial. We are not committed to this. We will see how it works for a couple of years.' The true lie to that proposition is the letter that the Treasurer tabled in another place today from the National Competition Council. It is clear that the government is not saying to the National Competition Council, 'We will just have this trial.'

What the government has been saying to the National Competition Council is, 'Look what great fellows and girls we are. We are changing and reforming the South Australian law. It is not some trial period. We are making a commitment to a change, which is a permanent change.' It is clear that the competition council's letter today indicates that, in the view of the council, the government is not doing enough. With respect to the suggestion made to the community that this is a trial—'And do not worry, ladies and gentlemen, if it does not work we will roll it back'—the complete lie to that is given by the letter from the National Competition Council that the Treasurer was flourishing today.

Mr Samuel, the President of the council, concludes his letter (and this is not part of the letter that the Treasurer read into the transcript in another place today; he omitted this one by design) as follows:

> I look forward to advice from you confirming that the legislation introduced into the parliament on 14 August 2002 has been fully implemented and confirming that South Australia will address remaining competition questions by the time of the 2003 assessment.

So, what the competition council is saying is, 'This is not a bad start, but we will need more from you at the time of our assessment next year.'

The Hon. Carmel Zollo: Why are you holding it up?

The Hon. R.D. LAWSON: This is not being held up. What our motion proposes is that, between now and 16 October (when nothing much could have happened, in any event), this parliament will have an opportunity to look at two significant issues that are not addressed in the bill. Just to reinforce the point that I was making in relation to Mr Graeme Samuel's letter, another passage from his letter dated today that the Treasurer did not read, I believe, is as follows:

> The council considers, however, that there is additional work for South Australia in relation to trading hours, as recognised by the government in the second reading explanation commitment to further action to streamline South Australia's current complex system of exemptions. The council will look for South Australia to have considered and implemented this foreshadowed reform of the restrictions by the time of the. . . 2003 NCP assessment.

Once again, the government has been saying to the National Competition Council, 'We are taking these measures'—not 'We are adopting some trial from which we will resile if it does not work out,' but 'We are on the rails leading to further deregulation, and we are not remaining on the platform.' So, the government is not being honest with the community in this way.

The second reading explanation states that it is proposed that an evaluation will take place reviewing the trial in two years, and that is given as an assurance to the community. The second reading explanation concludes:

> This government is committed to consultation and has heard and taken account of the views of all contributors. . .

That is an interesting choice of language—only those who have contributed thus far to the debate on shop trading hours. We suggest that there is room for further consultation on this matter. The interests of many South Australian businesses have not been taken into account. I mention, for example, how Coles Myer and Woolworths are complaining that their Big W and Kmart stores are not caught. But I am more interested, perhaps, in a South Australian company such as Harris Scarfe, which is considerably disadvantaged by these proposals. What sort of consultation has taken place to address South Australian businesses, of which Harris Scarfe is the most prominent?

We will be seeking, contingently upon the passage of this bill, for a select committee to be established to examine the industrial and employee relations implications and, in particular, to establish on this occasion a level playing field, and also examine the additional provisions of the Retail and Commercial Leases Act, which have been adopted in other states—and I am thinking of legislation passed, for example, in Tasmania fairly recently, and also in Victoria and Queensland, which provide protection to tenants of shopping centres.

It will be a productive exercise, and I urge members to support the establishment of a select committee.

It might be said against us, 'Well, when you', the Liberal government, 'last extended trading hours'—for example, in the Glenelg tourism precinct, which was a couple of years ago, and earlier on when significant amendments were made—'you did not undertake a thorough examination of the industrial ramifications, nor did you examine other measures in relation to all the other issues in relation to the Retail Shop Leases Act. I would have to plead guilty to that. But what is happening here is a change of a different order. It is fairly clear that this may be the last opportunity that this parliament will have to ensure that those interests are protected. We should grasp the opportunity now because, if the bill is allowed to pass in this form, the opportunity for those measures will be lost and we will have failed to grasp an opportunity that we should have grasped.

The Hon. T.G. Roberts: Why don't you move some amendments?

The Hon. R.D. LAWSON: I indicate that we will probably support the second reading in its current form. I have not seen any amendments that might be moved by the Independent members, and I have had an opportunity for no more than a brief discussion with the Hon. Mr Elliott, who has the carriage of this matter for the Democrats. If the bill is passed, certainly, we will be moving for our select committee.

The Hon. DIANA LAIDLAW: I, too, support the second reading of this bill. I also welcome the advice I have received that the majority of members in this place will support the reference of this bill to a select committee of the Legislative Council. The select committee, in my view, is critical to the proposals before us at present and to the general debate about extended or more flexible shopping hours. I have come to that conclusion because the government has consistently refused to acknowledge—let alone address—a range of cost issues that arise from the government's proposal.

I do not accept that an extension of shopping hours, which I essentially support and which I have consistently supported over some 20 years in this place, can be advanced without consideration of the cost impact to those who operate in the shopping centres and, more generally, the smaller retailers. I also take extreme exception to the way in which the government has handled this exceedingly sensitive and, it knows all too well, controversial issue. It has not kept anyone informed about the path that it was taking with this approach, yet it introduced this legislation into the House of Assembly only last week and expects the parliament (both houses) to pass this legislation within eight sitting days over a two-week period.

We are sitting almost continuously over that two weeks, which provides limited time for consultation on this bill such as the government had an opportunity to consult in preparing this bill. On those two grounds alone, but a few more that I will mention briefly in a moment, I believe that this select committee is a most necessary function in terms of further consideration of the provisions in this bill. Shop trading hours in this state has been a very difficult issue for governments of all persuasions to address from time to time, and it is only in piecemeal fashion that we ever seem to make any progress with respect to extended or more flexible shop trading hours, and that is shown by the following examples.

I highlight that the Early Closing Act was repealed by the parliament in 1970 and the shop trading hours restrictions were incorporated into the then Industrial Code. It took some further seven years for the Shop Trading Hours Act to be proclaimed, and that followed the result of a royal commission into shop trading hours. We then saw late-night trading in the suburbs of Adelaide on Thursdays, commencing 30 November 1977. Late-night trading in the city of Adelaide was at the same time introduced on Fridays, commencing 1 December 1977. It took some time to see further change to shop trading hours. That came in August 1986 when retailers were able to sell petrol on a seven day a week basis, 24 hours a day.

Many members would remember the farcical situation until that time when people could purchase petrol only at the Adelaide Airport (because it was on commonwealth property) or at Darlington, Eagle on the Hill and some places to the north of Adelaide, but not within the broad metropolitan area where the majority of South Australians lived. In November 1990 petrol retailers could lawfully sell other products, such as some general food items, in addition to the traditional motor accessories. In November 1990 shopping until 5 p.m. on Saturday afternoons was introduced.

Red meat sales on a Saturday have been allowed in this state only since the end of December 1994, and in 1995 shops in the central business district of Adelaide were allowed to trade from 11 a.m. to 5 p.m. on Sundays. Major advances were then made in June 1999 with shops in the central business district being allowed to remain open until 9 p.m. Monday to Friday (except on public holidays) and in the metropolitan shopping districts until 7 p.m. Mondays, Wednesdays and Fridays, and various other complicated configurations, none of which are easily understandable to consumers.

Certainly, today we have before us inherited piecemeal reforms over the period of the past 30 years and a motley lot of provisions, some of which encourage trade, others which restrict it in a very inconsistent fashion with restrictions placed on trade on the basis of law, area, days of the week or the number of people employed. One would think that, essentially, in this state we would certainly not have any restriction on the number of people who could be employed at any time in any retail outlet, but we do. That issue should be addressed and, I believe, that restriction and others removed.

I have been a consistent supporter for the introduction of more flexible shop trading hours in this state. I remember in 1983 (the first year I was elected to this place) lobbying my then leader, the Hon. John Olsen, to make a presentation to the then shadow cabinet pleading for the Liberal Party to be liberal in this area and to take account of consumers—the unheard voice in this debate. I was not successful before shadow cabinet in persuading it to my arguments, but I have been consistent in my approach ever since, and it is interesting to see that many Liberals have increasingly come to accept—even though reluctantly and even though in a piecemeal way—change in this area, which I think is an advantage for the state overall and consumers in particular.

The reason why I take such strong exception to what the Labor Party has done in this instance is that it has taken a very difficult issue and dealt with it in a very ramrod way, seeking to push through what it alone can accommodate and that with which it is comfortable, even though it may be an uneasy sense of comfort. In fact, I suspect that it is so uneasy about what it is doing that that is the reason why it is seeking to rush this legislation through so that there is little public

interest, and that it deliberately restricted input, information and wider consideration of these proposals.

It is a farce in that sense in terms of its regular touting of open and honest government that the government would seek to ramrod this legislation through and then accuse the Liberal Party and others in this place of frustrating change. We are not against change, but we are not in favour of change at any cost, and we are not in favour of disregarding an analysis of the impact on family lives and the cost arising from these changes. I note that the position that the Liberal Party takes on this occasion is entirely consistent with the position it took in 1988 when the then government—

The Hon. T.G. Roberts: 1898!

The Hon. DIANA LAIDLAW: It was 1988.

The Hon. R.K. Sneath interjecting:

The Hon. DIANA LAIDLAW: No, you have the worry, not us. In 1988 the then government introduced changes to the Shop Trading Hours and Landlord and Tenant Act but failed to address the issue of penalty rates. In the intervening period from 1989 to 1999, the government heeded our advice, and it is interesting that it helped the Shop Distributive and Allied Employees Association and the Retail Traders Association to come together and talk through the issue of penalty rates and resolve the situation satisfactorily at that time. The Liberal Party wants to address the same issue of costs now, and our position is consistent with the position that we took when we resisted government moves in 1989 to amend the Shop Trading Hours Act and the Landlord and Tenant Act. The government listened on that occasion, the parties came together and the issue of penalty rates was addressed.

This is what we want at this stage, and this is what we aim to achieve or, at least, actively canvass through the focus that the select committee will bring to this issue. I know that last Friday the Shop Distributive and Allied Employees Association met with the Retail Traders Association to address the issue of rates and to debate whether there should be amendment of the award—which would be my preference—or the implementation of an enterprise bargaining agreement.

Members interjecting:

The Hon. DIANA LAIDLAW: Well, I am just telling you the facts. We raised this issue over the past week in the other place and we are consistent by raising it now, and it is interesting that the union met with the Retail Traders Association and raised this issue last Friday and focused on this issue. The very fact that we have raised the prospect of a select committee has already brought the parties together, as one would wish, to address this very important question.

I will not support the extension of shopping hours at any cost. I have made that point consistently in debate on legislation over the past 20 years on this subject, and I make the point again. On the basis that those issues are addressed, I will continue to advocate for an extension of shopping hours, more flexible shopping arrangements and the need to get rid of many of the anomalies and silly, restrictive practices that today apply within the retail shopping regime in South Australia.

I hope that the members of the select committee will strongly focus on the government's proposal to allow electrical retailers to trade. While I believe that this measure should be opposed, to simply pick on one part of the retail business—in this instance, the electrical appliance business—and suggest that they can open, but not address the wider inflexibilities in the industry and the other restrictive practices—and, in fact, in the instance of what the government is proposing here, adding to the anomalies that are already rife in the industry—is a silly way of approaching shop trading hours in this state. I oppose a call for the select committee to look at this issue, thereby, hopefully, forcing the government to look more broadly at the inconsistencies in trading environments and trading regimes, and not just with respect to electrical appliance businesses.

Finally, I am disappointed that the government has addressed in part but not in full the measures that I addressed in the private members' bill that I introduced in this place about six weeks ago. That bill sought to do two things, one of which the government has sought to accommodate in the bill before us today, that is, reduce the number of core trading hours from 65 hours a week, which is currently in the act, to 54 hours a week. Incidentally, my bill provided that it be restricted to 52 hours a week, but I am prepared to accommodate 54 hours as proposed by the government.

However, I also propose—and the government has not taken up this issue—that the question of the number of hours each day be put to lessees in shopping centres as part of the secret ballot process that is currently provided for in the retail and commercial leases trading hours act. The proposed number of hours is an exceedingly important question to be put to lessees in addition to questions about reducing the number of core trading hours. I very strongly recommend that the select committee also addresses this issue.

One can appreciate that this is a sensitive issue for the Hon. Mr Sneath with his union background, and perhaps he intends to speak on this issue, not simply mumble from the backbench and interject. I would be interested in his contribution and to see it on the record rather than his simply seeking to interrupt my contribution in which, as you would wish, Mr President, I have abided by standing orders and not responded, even though it was tempting on occasions to do so.

The Hon. R.K. Sneath: You have done well.

The Hon. DIANA LAIDLAW: Yes, I have in this instance. Finally, I want the select committee to look at the subject which was highlighted by the Hon. Robert Lawson in terms of the proposed trial of the legislation that is before us. It is my understanding that the government never intended a trial, but the *Sunday Mail* got a whiff of a story that was to be presented the following Monday in the *Advertiser*, as a lead story, and ran with it, including reference to a trial. Now that has become the common understanding, and certainly it has been taken up since by some—but not all—government ministers and members when talking on this issue. It is entirely confusing, and we do not know whether or not this legislation is a trial, notwithstanding public statements by various ministers and the Premier.

Certainly the letter that the Hon. Mr Lawson referred to today clarifies that the government—at least behind closed doors and in correspondence with the National Competition Council—does not intend that this be a trial. But, the fact that it is now considered more broadly to be one is reason, I believe, for a sunset clause to be considered by the select committee. I would strongly advocate some approach which can provide an assessment of how this legislation will be accepted in the community and, pending the outcome of the select committee, what any amended legislation will cost the community. That is on an individual basis, a business basis and also in terms of competition payments. So, essentially, as a longstanding supporter of extended hours, I regret the way in which the government has handled this—

The Hon. R.D. Lawson: Mishandled.

The Hon. DIANA LAIDLAW: Handled it so badly that it has mishandled it: that is correct. It has discredited the integrity of the arguments for extended shopping hours. It does force us all to support a select committee to give further consideration to this matter and, as I said at the outset, I welcome that the majority of members in this place will be supporting the motion to be moved by the Hon. Robert Lawson.

The Hon. A.J. REDFORD: Despite much of the comment made by the *Advertiser* and the minister over the past few days, this is not just a simple issue of expanding shopping hours. The minister has made great play of the fact that this is 'a simple and balanced package'—as quoted by the *Advertiser* last Friday. Indeed, nothing could be further from the truth. I would invite the *Advertiser* to look at the actual wording in the bill to see whether it, in turn, would agree or disagree with the assertion that this is 'a simple and balanced package'.

Everyone agrees that the current law is unfair, inconsistent and full of anomalies. Indeed, correspondence, which has been referred to in other contributions, from Harris Scarfe, highlights some of the unfairness, and by that I refer to the fact that it is excluded from this extended trading, although it competes in a very substantial way with the Harvey Normans of this world, in the sale of white goods.

Last Friday, the *Advertiser* reported that we were stalling shopping hours. It stated:

> . . . up to $57 million in competition payments from the federal government will be at risk.

It points out:

> Under National Competition Council rules, states have until June 30 this year to eliminate anti-competitive laws such as restrictions on trading hours.

As I move about South Australia talking to ordinary people, they consistently say that the *Advertiser* is the competition guru. So good is it that it now has no competition. I am sure that companies such as Coles Myer aspire to be engaged in the same competitive environment as the *Advertiser*. Thus, some might say that we should listen to the king of competition, the *Advertiser*. Unfortunately, some others might say that the *Advertiser* does not have any competition and therefore it is not in a strong position to lecture the state on this issue of competition.

The Hon. T.G. Roberts: That's a good point.

The Hon. A.J. REDFORD: The honourable member interjects, with a smile on his face, and says it is a good point. I am pleased for that support, although I doubt whether anything in this contribution, except perhaps a mild error, might actually make its way into the newspaper. Indeed, the Saturday editorial in the column *Affairs of State* does not mention the word 'competition' once. Nothing is mentioned in the editorial or the article about competition. Indeed, Mr Greg Kelton, a journalist for whom I have some regard, states:

> Mr Wright is not proposing anything revolutionary. In fact, his proposals do not go far enough.

What better reason exists than to establish a select committee to look precisely at that issue? He goes on and says that we are supposed to be the party on the side of business; the party which favours deregulation; the party of free trade; and I would suggest that that is a very accurate observation. We are in favour of deregulation.

But what we are really in favour of is broad-based deregulation that extends not just in relation to the small issue of shopping hours but also to the issue of other factors which impact upon the competitive market within which our retailers, both large and small, must operate. The article goes on to say that there are no credible reasons for wanting to delay this bill.

I know that Mr Kelton is a busy man, and from time to time he may forget some of the matters that have been raised in the other place. He may well dismiss them and think that they are not important in his mind but, to our minds, they are important. Indeed, I will be very interested to read in a future column why he thinks the three important issues are worthy of dismissal.

There are a number of issues that impact upon the competition and competitive market within which these shops must operate. There is the cost of goods: if I can buy my goods at a cheaper price than my competitor, I have an advantage which may assist me in the making of profit and future capital investment in my business. The cost of rent is an important factor in relation to my competitiveness in this environment. The cost of electricity is also important and, if a competitor can get electricity at a cheaper price, they have an advantage and may make a more substantial profit or, certainly, may make it more difficult for me to survive in my business. Of course, Mr President (and I know that this would not have escaped your attention), the cost of labour is also an important factor in running a competitive business.

So, when one looks at this issue of competition which was raised, quite rightly, by the Treasurer, one sees that it is an issue which needs to be looked at in a broader context than simply when a shop opens or closes. I know, Mr President, that the *Advertiser*, that doyen of competition, would be most interested in, and most desirous of, causing great competition within our marketplace.

So, I think the first issue is that we need to ensure that all business, whether small or large, operates within the same industrial framework that its competitors operate. We all know, Mr President (and I know that you had nothing to do with this), that in the lead-up to the 1993 election, the STA, in an arrangement with Coles Myer, went ahead and registered an industrial agreement in the federal jurisdiction which changed the way in which penalty payments were made to workers.

Immediately following the successful negotiation to that—negotiations which I might say were not carried out in the public and not seen by small business, and that may be the appropriate way for it to occur—the then discredited Bannon-Arnold government sought to deregulate shopping hours. It was very interesting when donations made to the ALP in 1993 appeared in the annual return. We discovered, much to our surprise, that that doyen of capitalism, that great bastion of competition, Coles Myer, had donated something in the order of $150 000 to the Australian Labor Party.

The Hon. Sandra Kanck: No, they didn't.

The Hon. A.J. REDFORD: Yes, they did. I know that some of us were surprised that that was the case. I well remember, Mr President, when you had to go through that tough time when the name 'Labor' was a swearword.

The Hon. J.F. Stefani: Did they donate a house as well?

The Hon. A.J. REDFORD: The honourable member interjects; he may well have heard more than me. One might say, particularly when we live in this era of honesty and accountability as espoused by the Premier and the Treasurer on a daily basis, that we on this side—perhaps a little cynical,

perhaps a little jaundiced—might want to look at whether or not this is just part of a deal—part of a repeat process—that took place some time way back in 1993.

I apologise to those members for having such a long memory, but it is something that does stick in my mind. I would like to be assured that that sort of arrangement (some might call it a grubby dirty little trick, but I am not going to say that right now) has not been repeated. So, that is one issue. Indeed, the Labor Party does not have a great track record. I know, but I will not repeat what I have been told, the significant price the now Premier had to pay in order to change his vote during those cabinet discussions to support deregulation as the then Labor government wanted it. I think it cost Don Farrell about $300 or $400 in photocopying in the seat of Ramsey to enable the then minister to put out a brochure. I understand that it was the cheapest deal the STA has ever secured and one of which they are still extraordinarily proud.

The PRESIDENT: The honourable member will desist from his cheap shots and come back to the bill.

The Hon. A.J. REDFORD: It is not a cheap shot, Mr President; it is quite factual. I am happy to expand on it, but I can see that there is a level of discomfort from the other side when confronted with their overall hypocrisy, and I am not one to make them wallow in that degree of hypocrisy. The point I am trying to make (and I think members opposite might even grasp this) is that if we deregulate shopping hours, ostensibly, based on what has been said by the minister, for competition reasons, we have a responsibility to ensure that there is competition right across the board. That competition, as far as we can make it, should be fair competition, and small business should not be hung out to dry and devastated in the period during which this government suggests (and, admittedly, we had to force that suggestion out of it) it will look at the fairness of industrial agreements.

What more impartial body could there be than a select committee to look at these industrial arrangements to ensure that all business operates on a level playing field? I am sure that the STA would warmly welcome the opportunity to explain to a select committee, with all the powers and functions it has, that these level playing field agreements exist and that, if I run a small retail shop, I can pay my staff on a Sunday when I am competing with Coles Myer rates approximately equivalent to the rates paid by Coles Myer and other businesses. So, it will give businesses an opportunity to compare costs to ensure that there is no skulduggery which might remotely approach the sort of skulduggery with which we were confronted when we entered government in late 1993.

There is also the other vexed issue of shop leasing arrangements. The Hon. Andrew Evans would no doubt be extraordinarily mindful of the impact of long working hours on families and young people and the arrangements that can take place in those circumstances. Given that Mr Evans has an extraordinary mandate to look after the interests of families in this state, I think this is an issue that he would like to see teased out to ensure that we look at families and their working arrangements and the impact that those working arrangements might have on families.

The Hon. T.G. Roberts: How long would it take to report?

The Hon. A.J. REDFORD: The honourable member interjects, 'How long would it take to report?' I am happy to make myself available if I am chosen, and I am sure that the Hon. Rob Lawson would also make himself available on just about any day between now and October. Unfortunately, there are some members here and in the other place who have a track record of not turning up to these meetings. I am sure that, if there are any cancelled meetings of the select committee, we will be diligent to record the names of those members who are unable to turn up thereby making the committee inquorate so that, when any criticism (if any) is made of the failure of this committee to report by the date specified by the honourable member, we will know whose fault it is. I am sure, Mr President, that you would join with me in endorsing that practice and ensuring that it should prevail across the board so far as select committees and standing committees are concerned. Then we will all know who has a penchant for never turning up to meetings. I will not go any further than that unless I am provoked.

The Hon. T.G. Roberts: How do we provoke you?

The Hon. A.J. REDFORD: You know who I'm going to name, and that's not fair because he's not in the same faction as you.

The Hon. T.G. Roberts: Nor the same party.

The Hon. A.J. REDFORD: That was a very pertinent interjection.

The PRESIDENT: Order! Interjections are out of order.

The Hon. A.J. REDFORD: In any event, I understand that Mr Samuel is a man with whom the Treasurer has had a reasonable amount of accommodation, and it is good to see members of the Labor Party embracing the sorts of principles that Graeme Samuel has been espousing over the years. He would enjoy extensive caucus and state council support within the ALP following his recent conversion to the importance of competition and he would thoroughly endorse a proper and full inquiry to ensure that small business and small retailers engage in a competitive environment which is fair and open to all people.

I know that he would welcome that process and that, if any steps were taken by the government to prevent proper and fair competition because of some sweetheart deal, he would be concerned. Knowing that the Treasurer endorses Mr Samuel's position in such a strong way (as evidenced by recent statements) he would be equally concerned. So I am sure that, when the Treasurer reads these contributions and understands the full extent of the issue, he will have little difficulty in agreeing to a select committee.

In a letter tabled today in the other place by the Treasurer (Hon. Kevin Foley) he refers to foreshadowed reform and further reform. Rather than do this in a piecemeal fashion, I would have thought that we would look at the whole of this issue and the whole of this market at once and do it properly once and for all. He says this in the last paragraph—and I know that this would be at the forefront of the Treasurer's mind:

> I look forward to advice from you confirming that the legislation introduced into the parliament on 14 August 2002 has been fully implemented—

he does not give any specific date by when; he is not seeking to pressure the parliament—

> and confirming that South Australia will address remaining competition questions by the time of the 2003 assessment.

What is interesting is that this letter does not say what the remaining competition questions are. As we embark upon this process of reform, this embracing by the Labor Party of competition reform—and it is a welcome embracing—even the government would agree that we should be putting out into the open all the remaining competition questions, so that

we get an entire package of reform consistent with National Competition Policy and the payment at once of the $50-odd million that the Treasurer keeps referring to; that we are not dealing with this by stealth or a bit at a time but that we actually do what Greg Kelton suggests in his column, that is, embark upon reform in a proper and full way.

The Hon. T.G. Roberts: Are you looking at issues like retail price maintenance?

The Hon. A.J. REDFORD: I would not want to pre-empt what the select committee might do and what areas it might look at. I have some ideas of my own and I am sure that the honourable member in his contribution might have some suggestions as to what the select committee should look at. I am sure that we on this side would welcome any suggestions from the honourable member as to what we are looking at.

The Hon. Carmel Zollo: It's your idea to send it to a select committee.

The Hon. A.J. REDFORD: The Hon. Carmel Zollo made a contribution before we even set out the reasons why we wanted a select committee which, I can only say in the kindest possible way, indicates a very closed mind. And that is unfortunate. I also note that this is suggested to be a trial and I would be interested to hear evidence from the Treasurer or those who drafted the bill about what form this trial is going to take and what assessments are going to be used to ensure that this is a trial. I am perhaps not so sanguine as the shadow attorney-general: I am accepting the government at face value that it is only a trial. We need to establish benchmarks upon which we can look at this trial. I know that the Minister for Aboriginal Affairs likened the trial to a GMO trial on a windy day.

The Hon. T.G. Roberts: You're not that cynical?

The Hon. A.J. REDFORD: I'm not that cynical, no, and members will note that I have accepted a lot of the statements made by the Treasurer on face value in this contribution. I know that the Treasurer would not let me or the Legislative Council down. In summary, the select committee will give us an opportunity to look at the whole of the picture so far as competition is concerned. I am pleased that the Treasurer introduced the spectre of competition into this debate and I know that, when he sits down and thinks about this carefully, having introduced this spectre of competition, he will say that perhaps on reflection there ought to be a select committee or some form of inquiry into this whole competitive market.

I am sure that if he writes to Graeme Samuel—and based on my observations of that letter there is obviously a great line of communication already developing—Mr Samuel will say 'Yes, let's get a comprehensive package and let's look at all the competitive issues such as shopping hours, arrangements with landlords in shopping centres and the issue of labour costs.' I know that when Mr Samuel writes back to the Treasurer he will table that letter and say, 'Yes, I think there should be a select committee.' I look forward to the Treasurer over the next few days tabling Mr Samuel's comments about whether the issues of labour costs and others should be opened up to the market.

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

PUBLIC FINANCE AND AUDIT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That this bill be now read a second time.

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

Leave granted.

It is vital to have a plan to manage the state's finances so that we can provide for the things the community expects.

The sound and responsible management of South Australia's budget and public finances is critical to our state's future.

Financial responsibility and effective budget management are crucial.

The 10-point Plan for Honesty and Accountability represents a major piece of this government's reform process. Most of the initiatives proposed in the 10-point Plan involve a process of legislative review.

We are committed to accountability and providing taxpayers with clear information about how money is being spent.

As part of the plan we propose to introduce a Charter of Budget Honesty which will require this and future governments to set out key commitments to deliver financially and sociably responsible government to South Australia.

These legislative amendments give backing to the Charter of Budget Honesty required to implement a new Fiscal Responsibility Framework.

The primary objective of the Charter of Budget Honesty is to improve the transparency of the government's fiscal management thereby improving the accountability of the government to the public and to Parliament.

The legislative amendments will require—

- The government to produce a charter.
- Give direction to the contents of such a charter.
- Give direction to the preparation and release of a pre-election report.

The preferred means to implement such legislation is to make changes to the *Public Finance and Audit Act 1987*, as envisaged by this bill.

A Charter of Budget Honesty will be required to be produced within three months of a government being elected. It will be tabled in Parliament and commit the government to the fiscal responsibility obligations set out in it.

The first charter will be required within three months of this bill coming into operation.

The key principles on which the charter must be based are to be set out in the legislation and will include the following:

- There must be transparency and accountability in stating, implementing and reporting on the government's fiscal objectives based on its fiscal strategies.
- The government's fiscal objectives must take into account a range of issues including tax policy and burdens, risk and service delivery requirements.
- Consideration must be given to the whole range of government activities.
- Both short term and long term objectives must be taken into account in order to ensure equity between present and future generations.

The legislation will also include the following matters to be included in the charter:

- The government's financial objectives and the principles on which it will base its decisions with respect to the receipt and expenditure of public money.
    - A statement on how the government's financial objectives and principles will be translated into measures against which targets can be set and outcomes assessed.
    - The arrangements that will be in place to provide regular reports to the community about the government's progress and the outcomes that have been achieved in relation to the government's financial objectives.

In recognition of the seriousness of the government in implementing the charter, the Treasurer will be able to issue Instructions

under the Act in order to ensure compliance with the charter. The Treasurer's Instructions give directions about financial management and reporting, and financial procedures to be complied with by agencies. The penalty for a breach of an Instruction is to be increased from $1 000 to $10 000.

As part of the 10-point Plan we also propose to widen the powers of the Auditor-General.

The Auditor-General has been consulted and asked to provide his views on changes required to legislation to increase his powers and independence in accordance with our objectives for honesty and accountability in government. These reforms will be the subject of further legislative proposals in due course.

Explanation of Clauses

The provisions of the bill are as follows:

Clause 1: Short title

This clause is formal

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 4—Interpretation

It is necessary to include a definition of "general election" in the principal Act for the purposes of new provisions that are to be inserted into the Act by this measure.

Clause 4: Insertion of Part 1A

The Treasurer will be required to prepare from time to time a Charter of Budget Honesty. The first charter will be prepared within three months after the commencement of this clause. A new charter must be prepared after each general election. Copies of any charter will be laid before both Houses of Parliament. A charter will set out the broad fiscal objectives of the government and establish a framework for assessing the government's performance against those objectives. The legislation will set out various principles to which the Treasurer must have regard in preparing a charter. The charter will be required to incorporate the arrangements that will be put into place to provide regular reports to the community about the government's financial position and how its goals are progressing. The Treasurer will be able to amend or replace a charter from time to time.

Clause 5: Amendment of s. 41—Treasurer's instructions

The Treasurer will be able to issue instructions in order to ensure compliance with a Charter of Budget Honesty. It has also been decided to make a significant increase to the penalty that may apply if a person fails to comply with a Treasurer's instruction under the Act.

Clause 6: Insertion of s. 41B

It is proposed that the Under Treasurer prepare and publicly release a pre-election budget up-date report within 14 days after the issue of writs for a general election. The report is intended to provide an updated statement of the current and prospective fiscal position of the government. The report will be required to take into account all material government decisions and announcements. The report will be prepared according to the financial standards that apply to a

State budget and on the basis of the best professional judgment of officers of the Treasurer's department without political interference or direction. The Under Treasurer will be able to exclude from the report information that the Under Treasurer considers should be kept confidential because of commercial confidentiality requirements or the interests of the state.

Clause 7: Amendment of s. 43—Regulations

The opportunity is being taken to increase the penalty under section 43 of the Act (in line with the increase to the penalty under section 41).

The Hon. R.I. LUCAS secured the adjournment of the debate.

OMBUDSMAN (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

Received from the House of Assembly and read a first time.

CONSTITUTION (PARLIAMENTARY SECRETARIES) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That this bill be now read a second time.

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

Leave granted.

This bill proposes an amendment to section 67A of the *Constitution Act 1934* to permit the appointment of a maximum of two members of Parliament as Parliamentary Secretaries. The bill also proposes consequential amendments to the Schedule to the *Parliamentary Remuneration Act 1990*, and to the *Oaths Act 1935*.

The Crown Solicitor has advised that the *Constitution Act 1934* currently only allows for the appointment of one Parliamentary Secretary to the Premier. The government believes that there would be benefits in allowing for the appointment of one additional Parliamentary Secretary.

In connection with this initiative, the proposed amendments will authorise payment of an additional annual salary to the maximum of two members of parliament appointed as Parliamentary Secretaries, at a rate of 20 per cent of the basic salary of a member of parliament, without infringing section 45 of the *Constitution Act 1934*.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

(Absence of a commencement clause signifies that this bill will come into operation on that date on which it is assented to by the Governor.)

Clause 2: Amendment of s. 45—Disqualification of members holding offices of profit

This clause broadens the category of exceptions to the prohibition on members of parliament holding offices of profit from the Crown (prohibited by s. 45(1)) on account of the fact that it will now be possible to have a member of Parliament accepting office as Parliamentary Secretary to a Minister.

Clause 3: Substitution of s. 67A

This clause sets out the Governor's power to appoint a member of Parliament as Parliamentary Secretary to a Minister.

Clause 4: Amendment of Oaths Act 1936

Clause 4 makes consequential amendments to the Oaths Act 1936.

Clause 5: Amendment of Parliamentary Remuneration Act 1990

Clause 5 makes consequential amendments to the Parliamentary Remuneration Act 1990.

The Hon. R.I. LUCAS secured the adjournment of the debate.

ESSENTIAL SERVICES COMMISSION BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I appreciate that the Hon. Mike Elliott is not here for this debate, but I understand we will be going through some questions on clause 1 that the Leader of the Opposition wishes to raise and we will then seek to adjourn so the Hon. Mike Elliott will have the opportunity to raise any questions he wishes to raise on this bill tomorrow.

The Hon. R.I. LUCAS: I thank the Leader of the Government in the council for his indication of how we will progress this. I understand from what he said earlier this afternoon that we will treat broadly both this bill and the electricity bill. I will ask in relation to clause 1 of this bill a series of questions that relate to both bills. There will still be some questions on specific clauses in both bills, but it will certainly expedite proceedings. I understand that the Leader of the Government has agreed to that process.

The first series of questions seeks to explore in some detail the commitments that the present government made when in opposition during the election and just prior to it as to what it would introduce as part of its electricity plan. It first released a 15-point electricity plan and then a nine-point

plan, and subsequent announcements were made prior to the election and during the election. In the first plan that was released (the 15-point plan), the Premier and the Treasurer gave a commitment under the heading, 'Fixing contract provisions', as follows:

> A Labor government would expect retailers to promptly pass on electricity price falls and would work to ensure there are look-back clauses inserted in contracts with retailers to give consumers access to the benefits of cheaper power.

Could the minister indicate whether in the Electricity (Miscellaneous) Amendment Bill and the Essential Services Commission Bill the Labor government has given policy flesh to the promise it made prior to the election?

The Hon. P. HOLLOWAY: As I understand it, the 15-point plan was released by the Labor Party about 12 months ago. That was at a time, members will recall, when we were facing massive increases in prices for business customers, that is, those in that particular tranche that was up for deregulation last year. This question of look-back clauses, as I recall it, was a matter that the government, in which the Leader of the Opposition as Treasurer was responsible for electricity matters, was considering. As I recall, AGL, when it finally came out with its contracts in relation to electricity last year, had a system where the price could be adjusted depending on actual prices. I think there was a capacity so that, if the wholesale price fell below a certain level, retail prices would be adjusted accordingly.

As I recall the discussions at the time, when that plan came out it was in that context. Certainly, I believe it did have some effect in relation to prices that applied for business customers at that time. Certainly, there were some arrangements in the AGL price schedules at the time that had elements of what might be described as a look-back clause. As a result of advice from advisers, I can say it was in that particular context. As a result of the bill before us, the issue we all will face in this state at the end of this year is full retail contestability for smaller customers. So that was the context in which that original policy was proposed. That is my recollection of events.

The Hon. R.I. LUCAS: My question is: does either the Essential Services Commission Bill or the Electricity (Miscellaneous) Amendment Bill implement this particular promise, or is that promise not to be implemented by the new government? In other words, the commitment is that a Labor government would expect retailers to promptly pass on electricity price falls. One can understand that, if contracts are to be written at the moment or next year and if in the future prices were to further reduce, the Labor government, having said that it would expect retailers to promptly pass on electricity price falls, it would work to ensure that there are look-back clauses inserted in contracts. My question is simply: does either of the two bills implement that particular policy promise from Labor?

The Hon. P. HOLLOWAY: Under the provisions of the bill, the Essential Services Commission does have the capacity to review the prices that are set at the retail level and ensure that those prices are fair. I guess you could say that that incorporates the essential elements which the Labor Party promised at the election. I refer the honourable member to clause 35 headed 'Minister may refer matter for inquiry'. Subclause (5) provides that the minister referring a matter may do one or more of the following things, including:

> (b) require the commission, as part of the inquiry, to consider whether a price determination should be made under part 3, and if satisfied that it should, to make such a determination under that part in conjunction with the making of its report on the inquiry.

Again, in relation to the question, the honourable member was referring to the 15-point plan and look-back clauses. I think I have already explained the context in which they were introduced and, indeed, did have some effect on policy at the time.

I remind the committee that at the time when the 15-point plan was introduced one of its provisions was to set up a task force to investigate this matter and, if I recall correctly, about an hour after the then leader of the opposition had announced it, the then premier came up with the same policy. I think what has happened throughout much of this debate is that, when we as the then opposition were raising these sorts of issues, the then government certainly during the previous 12 months leading up to the election appeared to be responding to those matters—and it is probably just at well it did.

The Hon. R.I. LUCAS: I do not want to unnecessarily delay the committee stage, but it is a simple question. If the government has now changed its position and the answer is that this bill does not give the power for look-back clauses to be inserted into retailer contracts, it can be simply answered by saying, 'No, it does not' and we can move on to the next area. All I am seeking to do in this first series of questions is to look at the promises that were made by the Labor Party prior to the election and to find out which of them have now been implemented in these two bills. I am assuming that some will not have been implemented in the two bills for a variety of reasons. For instance, the government has looked at them and decided they were loopy, less than useful, or not things that it wants to continue with in government, or the government will argue that times have changed and it will not implement them. If that is the case, that will resolve each particular issue.

If what the minister is now saying is that clause 35 of the electricity act amendments give the Essential Services Commissioner the power to insert into retailers' contracts look-back provisions contrary to a retailer's views, for example, then that would not be my reading of the amendments to clause 35, which give the capacity to set a limit on prices. But, if the minister is arguing that that does give the Commissioner the power to insert, against the wishes of a retailer, a look-back clause in the contract, I would like that clarified on the public record. Certainly, my reading would not indicate that that is part of the arrangements that are covered by section 35 amendments.

The Hon. P. HOLLOWAY: I assume that the leader was referring to section 35A of the—

The Hon. R.I. Lucas: Electricity Act.

The Hon. P. HOLLOWAY: —Electricity Act. All I can say is that the 15-point plan was introduced by the Labor Party at least, I would think, about nine months before the election, and it was in response to the then crisis in price rises for those small business segments below 160 megawatt hours, or whatever the range was. It was, essentially, designed for that and, indeed, it did have some impact, because, as a result of that policy being launched, there was some modification of the clauses put out by AGL. I believe that the previous government's own task force looked at that matter. But the relevant policy that the Labor Party took to the last election, I guess, was that nine-point power plan. We can spend all night arguing about the relevance of whichever plan, but the 15-point plan that had that measure was designed with a particular situation in mind, and it was effective, as was

shown by the result. The nine-point plan, which I believe also will be effective, is essentially the policy that we took to the election. But, in relation to look-back clauses, I imagine the answer is that retailers are under the current provision: if they wish to put that up as part of their proposals to the Essential Services Commission, I guess the capacity is in there to do so.

The Hon. R.I. LUCAS: Given that the minister, in responding to my three questions on the same topic, has quoted clause 35 amendments to the Electricity Act as part of his response, is he arguing that the Essential Services Commissioner will have the power to insert in retailers' contracts look-back clauses contrary to the wishes of the retailers?

The Hon. P. HOLLOWAY: Clause 11(d) strikes out certain paragraphs. Clause 11(e) provides:

> (e) requiring the electricity entity to comply with code provisions as in force from time to time (which the Commission must make under the Essential Services Commission Act 2002) relating to standard contractual terms and conditions to apply to the sale of electricity to small customers;

It is substituting that paragraph in section 24 of the principal act, the Electricity Act. So, I guess you can require the electricity entity to comply with code provisions as enforced from time to time under the Essential Services Commission Act relating to standard contractual terms and conditions.

The Hon. R.I. LUCAS: The amendments under clause 11 to the Electricity Act, if that is what the honourable minister is talking about—

The Hon. P. Holloway: Yes, that is right.

The Hon. R.I. LUCAS: Section 24 of the principal act talks about requiring electricity entities to comply with code provisions relating to the provision of pricing information to enable small customers. I do not for the life of me see why he is quoting that to me, when my question is: is the government intending to give the Essential Services Commissioner the power to insert look-back clauses in retail contracts against the wishes of the retailer? The clause that the minister has just quoted does not relate to that.

The Hon. P. HOLLOWAY: New paragraph (e) requires the electricity entity to comply with code provisions in force from time to time, which the commission must make under the Essential Services Commission Act relating to standard contractual terms and conditions to apply to the sale of electricity to small customers. That is substituted into new paragraph (e) of section 24 of the principal act. The point is that, under that power, the Essential Services Commission can impose those conditions, and I guess that is the answer. New paragraph (e), under clause 11, makes it pretty clear.

The Hon. R.I. LUCAS: The minister has now outlined a measure contained in clause 11(d)(e) on page 6 of the Electricity (Miscellaneous) Amendment Bill in the amendment to section 24. The minister is arguing that, based on advice, the Commissioner will have the power to put a standard contractual term such as would be consistent with the Labor Party's 15-point plan, that is, insisting that a look-back clause be inserted in retailers' contracts. He says that they have now drafted the legislation to give them that power to do so. Is that the policy position of the new government or has it now changed its policy position from the 15-point plan?

The Hon. P. HOLLOWAY: The 15-point plan that the leader keeps referring to was a response to a particular condition that existed in relation to the small business sector that was deregulated some 12 months ago. It was specifically in response to that. It was Labor's nine point plan, which was released at the election, that is essentially the basis of our policy. The point is that clause 11 gives the Essential Services Commission considerable powers in relation to setting those contracts, but I do not think that it would be reasonable for the leader to try to take something out of a document designed for a particular set of circumstances and say that that is what we are trying to do now in relation to a completely different set of circumstances.

It is clear from that new provision that the power exists for the Essential Services Commission to have some control over the contractual terms. The leader is trying to take that situation in the context of 12 months ago, when we were faced with the deregulation of the small business sector. He is trying to apply that to the situation now with small customers. What we really need to do is get the new Essential Services Commission to give attention to the problems we face now, and I am sure that that is what it will do.

The Hon. R.I. LUCAS: The minister has clarified half of the response and that is that the government has drafted the legislation to give the Commissioner the power to insert look-back clauses against the wishes of retailers into the retailers' contracts. At least half of the issues have been resolved. The minister talks about the circumstances of the grace period customer time, which was July last year, as being something in the past tense. AGL, for example, will argue that it signed during that period three and five-year contracts with generators, locked in at what AGL argues (I am not saying that I necessarily agree) are high prices over that three to five-year period. That continues into next year and beyond.

The Labor Party policy commitment to insert look-back clauses can therefore be relevant in certain circumstances for the small customers from January next year, that is, AGL is arguing, 'We have locked ourselves into high price contracts for three to five years.' The Essential Services Commissioner—to be fair to the commissioner—between October and January will not be in a position to know with certainty what the prices will be in 12 months in terms of the contracts the retailers will sign with the generators. He will only be in a position to know the contracts they have signed now. He will not be in a position to know in 12 months or two years, for example, what the new contract prices will be.

At some stage in the future it may well be that AGL—as those contracts roll off—will sign contracts at a lower level. In its 15-point plan the Labor Party promised that, as that occurred, AGL should not be able to cream contracts in terms of its prices and should consider inserting look-back clauses so that consumers are given access to the benefits of the cheaper power that AGL may well write. I do not know whether the minister wants to add anything further to that in response to the AGL contract position.

The Hon. P. HOLLOWAY: Again, I just make the point that I think the leader is trying to take out of context a policy that was trying to address a specific issue at a specific time. The Essential Services Commission would clearly have to take into account, as part of its deliberations, those sorts of issues to which the leader referred, that is, if legitimate costs are faced by the retailer in relation to contracts entered into then they must justify that fact. The whole purpose of this is to ensure that the prices the retailer charges are appropriate taking into consideration the costs faced by that retailer in purchasing its electricity.

It is exactly for those sorts of reasons that we have this bill: to enable the Essential Services Commissioner to ensure that those prices are properly justified. That is really the thrust of the bill. If there are those sorts of issues and AGL

satisfies the Essential Services Commissioner on those matters, so be it. Again, the leader is taking this issue of look-back clauses out of the context in which it appeared in the original Labor policy document that addressed those issues relating to small business.

The Hon. R.I. LUCAS: The Labor Party, in its 15-point plan and in a number of subsequent media statements by both the Leader of the Opposition and the shadow treasurer in the period leading up to the election, made great play of the following commitment:

> Labor will ask the ACCC, as well as NECA, to investigate and rule on whether the structure and operations of local generators following privatisation has led to an uncompetitive internal market in South Australia leading to higher prices. The issue of retail competition must also be examined.

Has the government, consistent with its commitment, asked the ACCC to investigate and rule on whether the structure and operations of local generators has led to an uncompetitive market?

The Hon. P. HOLLOWAY: This is one area in which the Minister for Energy, I think, has shown some leadership that was not evident in the past on the matter. My colleague the Minister for Energy called a pre-determination conference on rebidding by generators, which the ACCC held a couple of weeks ago.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: What is the leader talking about?

The Hon. R.I. Lucas: That had nothing to do with it. That is the next series of questions—wrong brief.

The CHAIRMAN: The minister has the call.

The Hon. P. HOLLOWAY: Perhaps the leader could repeat the question. I assumed he was asking about whether the minister had addressed the ACCC in relation to the matters. Perhaps he can explain it more clearly.

The Hon. R.I. LUCAS: I am reading the Labor Party's policy commitment; it is not my explanation. The issues of rebidding will certainly be the subject of further questioning, but this is a specific question about the structure of the generation and retail industries in South Australia. The Leader of the Opposition, the shadow treasurer and Labor spokespersons were critical of the structure of the electricity industry in South Australia after disaggregation during the privatisation process.

The Hon. P. Holloway: With some justification.

The Hon. R.I. LUCAS: The leader says, 'With some justification,' so perhaps the penny has dropped and he remembers what they were talking about. The specific promise was that Labor would ask the ACCC as well as NECA (and I will ask about that in a moment) to investigate and rule on whether the structure and operations of local generators following privatisation have led to an uncompetitive internal market in South Australia. In the past week the Leader of the Government has written to the ACCC and asked it to rule on the issue of the AFL and preliminary finals.

Six weeks ago the Treasurer wrote to the ACCC's Professor Fels and asked for a ruling as to whether there was anti-competitive behaviour in relation to hoteliers increasing prices as a result of gaming tax increases. This specifically states that Labor will ask the ACCC. It is a simple question: has Labor written to the ACCC and asked for an investigation into the structure and operations of local generators?

The Hon. P. HOLLOWAY: I do not have knowledge of that. On coming to office, my colleague the Minister for Energy has completely reviewed all the measures in place that were left by the previous government in relation to the electricity market. As the leader mentioned, it was quite clear that the structure of the electricity market in this state has some huge problems. We have a monopoly retailer, and we know what sort of problems we were facing amongst the very few generators that we had. There is no doubt at all that the structure of the electricity market is a problem, but this government has been seeking to address those problems within the framework inherited from the previous government.

I notice that in his second reading speech the leader spoke at great length—for well over an hour—going back through the history and giving his interpretation of the development of the Electricity Act. Certainly, from this government's point of view, when we came to government back in March facing full retail contestability at the end of this year—in just nine months—most of the key decisions in relation to the structure of the electricity industry had been taken. The industry had been privatised, there was one retailer, and this government faced many structural problems. We have had a very difficult job in dealing with the situation, given that structure. Unfortunately, as we have discovered over the past four years, it is a lot easier to get yourself into this sort of trouble than it is to get out of it. Given the considerable constraints imposed on us by the structure we inherited, the job facing this government is to try to make that structure work as well as it possibly can.

The Hon. R.I. LUCAS: If the minister does not have an answer this evening, will he undertake to get an answer to the question before the bill passes? It is a simple question: has the government asked the ACCC as well as NECA to investigate and rule on the structure and operations of local generators, etc.?

The Hon. P. HOLLOWAY: I am not aware that that has been done, but we would have to check. Yes.

The Hon. R.I. LUCAS: I think a cabinet committee might have been established to review all privatisation contracts as one of the Labor Party commitments. The Labor Party indicated that it would examine possibilities for improving the standards for system maintenance contained in the electricity privatisation contracts where improvements might be required. I ask the minister whether, if he does not have an answer this evening, he will undertake to bring back an answer. Have the electricity privatisation contracts been reviewed, and has the Labor Party decided to improve the standards for system maintenance contained in those contracts?

The Hon. P. HOLLOWAY: I think the Leader of the Opposition was correct when he said that a subcommittee of cabinet was looking at contracts. I do not have information here about which contracts in particular have been revised, but I will come back with that detail.

The Hon. R.I. LUCAS: The Labor Party, prior to the election, in its 15 or 9 point plan—I am not sure which—under the heading 'More Power for the Electricity Industry Regulator' indicated that the Labor Party would direct the Industry Regulator to undertake a comprehensive review of South Australia's electricity prices. It states:

> The regulator will inquire into the cost structures and pricing practices of the industry to develop a comprehensive framework by which to assess whether prices charged by the power companies are reflective of the costs of supplying the market.

I note that this is in relation to prices already being charged, as opposed to prices to be charged to small customers. Further, that same policy document states:

> Labor will use section 30(1) of the act to require the industry regulator—

that is, the existing act, so the power already exists—

> to develop a comprehensive framework for the analysis and assessment of prices charged to all categories of consumer by all relevant electricity companies.

That power has existed since the introduction of the act, but since the government was installed on 5 March that power has been available to the new government. In the past six months has that section of the act been used by the government in directing the Industry Regulator to develop this framework? It would make sense, certainly, for this to have occurred because the power exists and, for any consideration of what needs to be done on 1 January, if that power had been used in March, then much of the information required by the Industry Regulator would have been available now to assist the Industry Regulator—or soon to be the Essential Services Commissioner—in the task that he has ahead in terms of prices justification.

The Hon. P. HOLLOWAY: I understand that the Industry Regulator, soon to be the Essential Services Commissioner, has undertaken some review process in relation to these matters, but I am also advised that he requires the provision under new division 3AA of the Electricity (Miscellaneous) Amendment Bill which is entitled 'Special Provisions Relating to Small Customers'. My advice is that it is really these powers that are required to most effectively undertake the review to which the leader was referring.

The Hon. R.I. LUCAS: That would only be if the retail companies did not comply with requests for information. We could explore that later. It would appear that the answer is no.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, my question was, 'Has a direction been given by the government under section 30(1) of the act to require the regulator to undertake this price inquiry?' It is a direction power under section 30(1) of the existing legislation. Has the government enacted that particular power?

The Hon. P. HOLLOWAY: I notice that the Leader of the Opposition was talking about section 30(1) of the Independent Industry Regulator Act. My best information is that there has been nothing specific in relation to that. Under clause 30 of that act, I think it is, the minister can refer a matter for inquiry, or the regulator can of his own volition undertake that. I understand that some work in this area has been done but in relation to that pricing I am advised that it is really this new division 3AA which is the key to be able to most effectively perform this task.

The Hon. R.I. LUCAS: I thank the minister for indicating that the government has not enacted section 30(1) and issued a direction. The minister has now indicated that some work has been undertaken by the regulator of his own volition since 5 March. I understand that some advisers here can throw some light on that. Perhaps the minister will clarify what he said previously. I think *Hansard* will show earlier that the minister indicated that the Independent Industry Regulator had, of his own volition, been collecting information. Perhaps the minister can clarify what he has said. Given that there was no direction from the minister, what work of his own volition has the Independent Industry Regulator been undertaking? In particular, has the Independent Industry Regulator sought pricing information and contractual details from AGL and other retailers since 5 March?

The Hon. P. HOLLOWAY: Obviously as to those specifics it would be up to the regulator himself to do it. I understand that a discussion paper has been issued in relation to these matters. I think that is something we would have to take up with the regulator himself if he has been conducting that matter under his own powers. I gather he would be the one who would need to provide that information. Given that there is a discussion paper, I imagine that that would probably provide a lot of that information.

The Hon. R.I. LUCAS: Since we have senior advisers here who might be able to speak with the regulator before I can, can I ask the minister whether we can, before we conclude debate on this this week, seek a response from the regulator as to what action he has taken of his volition, in relation to seeking pricing information and contractual information from retailers.

One of the provisions that the minister has referred to is giving the regulator greater powers, but my understanding and advice have been that that was only if retailers refused to comply with requests from the regulator. Nothing prevented them from voluntarily complying with requests from the regulator, particularly if they had the knowledge that the parliament was about to pass legislation to give them the power anyway. So, if an undertaking can be given to at least seek a response from the regulator to my specific question on that area, it will be up to him how he responds. I accept that.

The Hon. P. HOLLOWAY: I will endeavour to get that information.

The Hon. R.I. LUCAS: In relation to this area of prices inquiries, one of the Labor Party's specific policy commitments—which I might say were enormously popular in the community, because electricity was obviously a key and controversial issue, and the Labor Party was seeking to differentiate itself from the then government with its specific, tougher electricity policies—was that:

> . . . the industry regulator be required to undertake a full-scale inquiry into the pricing behaviour of the generating companies, and whether prices charged by the generators in the wholesale market are justified or the result of an uncompetitive industry structure and market power.

The earlier inquiry was to be a general inquiry into overall electricity prices in the market, but the Labor Party followed that up with a specific commitment to have a full-scale inquiry by the independent regulator into the pricing behaviour of the generating companies. I am assuming that the minister's response that section 30(1) was not used in relation to the earlier inquiry probably is going to be the same answer to this specific commitment into the pricing behaviour of generating companies. I seek a response from the minister.

The Hon. P. HOLLOWAY: The focus of this government has been first of all to establish the Essential Services Commission powers and to ensure that the needs of consumers have been protected. After all, this government came to office back in March and, of course, we are facing full retail contestability at the end of this year. So, there has not been a lot of time—and I might say there was not much preparation in relation to that matter—and quite clearly the priorities of the government have been to get the new mechanisms in place, and to ensure that consumers will be provided with the maximum possible protection when full retail contestability takes place. That has been—quite rightly—the priority of the government.

The Hon. R.I. LUCAS: Whilst that sounds fine, it does not answer the question which is: has the government used the power under section 30(1) of the Independent Industry Regulator Act to direct the regulator to have an inquiry into the specific pricing policies of the generators in South Australia?

The Hon. P. HOLLOWAY: I am advised that, rather than focusing on the section 30(1) provision, the government's priority has been to address this issue at the national level. The problems in relation to the generation sector are not confined to this state, as I am sure the leader would accept; indeed, as I recall, he spent much of his second reading speech referring to what he saw as problems outside this state. So, the focus of the government has been on trying to address these matters at a national level, and I believe the Minister for Energy has taken an effective leading role at a national level.

The Hon. R.I. LUCAS: I thank the minister for confirming that section 30(1) has not been used by the government during its six months in power to direct the regulator to undertake an inquiry into the pricing policies of the generators in South Australia. In its policy package, the Labor Party specifically made this commitment:

> Labor will legislate to require generators to justify their prices to the commission.

Can the minister indicate whether these two bills implement that specific commitment to require generators to justify their prices to the commission?

The Hon. P. HOLLOWAY: I think the leader is quoting from the so-called 15-point plan which, as I said, was specifically introduced to address the horrific problems we faced last year, when small business was facing massive increases in electricity prices. I think the average increase was 30 per cent, and there were some price rises of up to 90 per cent. In approximately May last year—well over 12 months ago—that policy was addressed and it certainly had its effect. The 15-point plan goaded the previous government into action, as it needed to, because it had been extremely tardy on such matters. Once the plan had been released, within hours it had forced the previous government into setting up its task force and doing its own investigation into some of these matters.

So, when the history of this state with respect to electricity privatisation and the whole electricity contestability issue is considered, that 15-point plan will be seen to have played a significant role, if for no other reason than forcing the previous government to take some action, if somewhat belatedly. The policy that the government took to the election, almost 12 months after that action, with the 15-point plan having been released in May or thereabouts last year, means that the 9-point plan that was released was the basis upon which this government went to the people at the election, and won, and rightfully so. Electricity certainly was a key issue in relation to that, and we all know why. It was, of course, because the previous government began its term of office four years ago by going to the people saying that it would not privatise electricity.

So, I really think it is a little rich of the Leader of the Opposition to be getting up and trying to go through in minute details this policy that was some 15 months or more out from an election and trying to find some point of difference. In fact, history will show that the most significant misleading of the people of this state in relation to electricity was when the government of which the Leader of the Opposition was a member went to the people back in 1996 promising not to privatise electricity and then breaking that promise within months of the election.

The policy that this government put, the nine-point plan, is what this government is now seeking to implement. Here it is, less than six months after this government was elected to office, and the reason why we are here late at night is to try to get this—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: May 2000, was it? Well, there you are.

The Hon. R.I. LUCAS: I thank the minister for that response. I indicate to the minister that the document I am quoting from is actually Labor's nine-point Power Plan released in January-February of this year.

The Hon. P. Holloway: Which part?

The Hon. R.I. LUCAS: The question I have just asked about is: will Labor legislate to require generators to justify their prices to the commission? The minister, in an eloquent rebuttal of my question, said that I was referring to his 15-point plan, which is now no longer relevant, and that they have all been superseded by the nine-point plan which was released in January-February of this year.

Let me just refresh the minister's memory. In Labor's nine-point plan, point four of nine points under the heading Generators, we see the following:

> Labor will also give the new Essential Services Commission strong new powers to investigate generators that are found to be manipulating their market power or acting in a non-competitive manner. Labor will legislate to require generators to justify their prices to the commission—

and it then goes on. I am not referring to a two year old 15-point plan. I am referring to the document that the minister, the then leader of the opposition and shadow treasurer took to this last election just six or seven months ago. I am not talking about, as the minister sought to rebut by saying this was a document that was one year old or two years old, the nine-point plan that Labor took to the election. My question remains: does this package of two bills, electricity and Essential Services Commission, implement that promise that Labor took to the election?

The Hon. P. HOLLOWAY: I am advised that on coming to office the government raised these particular issues in relation to generators—the abuse of power—at the national level because the government believes that is where these issues can most effectively be addressed. As I said earlier, the Minister for Energy has been particularly effective in taking a leading role in addressing these as a national issue.

The Hon. R.I. LUCAS: Does this package of bills implement the Labor policy promise—

The Hon. P. HOLLOWAY: As I said, we are doing it through another vehicle—that is essentially the answer.

The Hon. R.I. LUCAS: So, it doesn't?

The Hon. P. HOLLOWAY: Not through the Essential Services Commission.

The Hon. J. GAZZOLA: On a point of order, Mr Chairman (and I am not sure that it is a relevant point of order), we are here to discuss the actual bills as opposed to the Labor Party policy leading up to the election.

Members interjecting:

The Hon. J. GAZZOLA: No. As I understand the question, if we have a look at the functions of the commission in point 5 and the objectives and consultation in point 10, we see that it talks about the regulation of prices and reports by the commission to the minister about the regulation of those

various industries mentioned earlier in the commission. So, my point of order really is, Mr Chairman—and I do seek your guidance on this—that at this committee stage we are discussing the actual bills that are before us as opposed to what the Labor Party's policy may or may not have been and the interpretation thereof. If we go down that path, we could be here all night, and I do not have a real problem with that.

The CHAIRMAN: We will not be here all night. Standing orders require that members address the bills. However, there is a longstanding convention that, in an endeavour to expedite the long-term passage of a bill, this type of questioning takes place on either clause 1 or clause 2, allowing the minister to provide answers so that the bill is passed as quickly and efficiently as possible, and that is something we all want. If the minister wants to go away and stick strictly with standing orders, that is his prerogative. However, I do not believe that that is the most efficient way of handling the bill. If the Leader of the Opposition and the minister are happy, we will proceed the way we are going, because I believe we are getting near the end of the questioning.

The Hon. P. HOLLOWAY: The government is trying to be helpful. As I have said, the Leader of the Opposition obviously wants to write his own version of history in relation to electricity, which I suppose he is entitled to do. However, he has an extremely difficult task in that regard. Given that generators come under the National Electricity Market, the government is of the view that these issues are best addressed at the national level, and the government is proceeding in that way. Hopefully, the Minister for Energy will be successful in persuading his colleagues that this is the best way to go in terms of addressing the abuse of market power by generators.

The Hon. R.I. LUCAS: In response to the Hon. Mr Gazzola, my question was in relation to Labor's commitment to legislate to require generators to justify their prices to the commission and where in this bill or its attachment bill (the electricity bill) that promise has been implemented. I do not think that one could be more specific than that in relation to the provisions of the legislation. Either it is or is not in the bill. I believe the minister has just established that it is not in the bill.

The Hon. P. Holloway: We are pursuing it through other means.

The Hon. R.I. LUCAS: We will talk about that during this debate. In relation to taking action against rebidding at the national energy ministers forum, the provisions do not actually require generators to justify their pricing to the commission. All they do is to potentially ban some, but not all, rebidding practices. Hopefully, the goal would be to lower prices, but it does not require generators to justify their pricing to our Essential Services Commission.

The promise did not make much sense in the first place. It was superficially attractive at the time, and it was good for talkback radio. Hopefully, the government is not proceeding because it sought wiser counsel and realised the truth of what the previous government was telling it: that it did not make much sense to make the sort of commitments the government was making in relation to legislating at the generator end of the market.

The Labor Party also gave a specific commitment in the nine point plan and other announcements to increase competition in the retail sector by legislating to place on all retailers the obligation to supply power to all customers within their market segments, particularly within the household market. Will the minister advise whether this bill or the Electricity (Miscellaneous) Amendment Bill implements that specific commitment?

The Hon. P. HOLLOWAY: I refer to clause 17 (Division 3AA of part 3) of the Electricity (Miscellaneous) Bill. New section 36AA provides:

> (1) This section applies to an electricity entity holding a licence authorising the retailing of electricity that is declared by the Governor under this section to be an electricity entity to which this section applies.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: In the first instance, AGL is the only entity but, as I understand it, this provision can be applied to other retailers should we get any.

The Hon. R.I. LUCAS: I am aware of the provision to which the minister refers, but my understanding is that the government's intention is to apply this particular provision only to AGL. It is possible that from January next year Origin may well be another company competing in the marketplace and it is possible that later in the year TXU may well be competing in the marketplace as well. My understanding of the government's position is that this particular requirement will be applied only to AGL and not to the others. I seek clarification of the government's policy.

The Hon. P. HOLLOWAY: Obviously at this stage AGL is effectively the monopoly provider of electricity, so any new competitor would have to come in at a price under the price set by AGL if it is to have any impact on the market. I believe that, if necessary, any other entity could be included and covered by this section. I am advised that this offer will be there for all existing and future customers who might come back to it, if the customers leave and wish to sign up with a new retailer that appears in the marketplace for a certain time. Essentially, they have this fall-back position with AGL.

The Hon. R.I. LUCAS: One of the concerns that some retailers had and that AGL might have was that if other retailers were allowed in the market to cherry pick, to use a colloquial expression, that is, to supply only certain customers and certain market segments, AGL might argue that it is unfair if it is required to supply all customers in all segments. The Labor commitment sought to address that by saying that the government would change the law to place on all retailers the obligation to supply power to all customers within their market. If the section that the minister has referred to does not require that, is there anywhere else in this legislation that implements this policy commitment from Labor that all retailers would have the obligation to supply power to all customers within their market segment?

The Hon. P. HOLLOWAY: We have to take into consideration the structure of the market as it exists. Presently, we have this monopoly with AGL and that is essentially the issue that we are dealing with.

The Hon. R.I. LUCAS: Is the minister saying that, if and when Origin enters the market early next year, Origin will be required by this legislation to supply power to all customers within its market segments, particularly within the household market?

The Hon. P. HOLLOWAY: The answer probably is that it can be if necessary.

The Hon. R.I. LUCAS: So, the minister is confirming that it might not be. It will not be required by law that it has to. Will the minister clarify, therefore, if it is discretionary, whose discretion it is? Will it be a discretion of the Essential Services Commissioner to say, 'I will require Origin to

supply to everyone' or, 'I will allow Origin just to provide supply to certain customers within certain markets'?

The Hon. P. HOLLOWAY: The Leader of the Opposition is really finding it difficult to see the wood for the trees. He is so obsessed with the letter of the law of a policy that was put in this document some time ago that he cannot understand that what the new government is trying to do—and is achieving effectively—is to get the best possible outcome for consumers.

The Hon. R.I. LUCAS: I'm just asking you a question. What does the legislation do?

The Hon. P. HOLLOWAY: And why are you asking it? We all know why you are asking it: you are trying to create some impression about Labor Party policy so that you can say, 'It will be a broken promise,' and you can then throw that around to try to mislead what we are doing.

The Hon. R.I. Lucas: This is your nine-point plan.

The Hon. P. HOLLOWAY: Yes, it is, and we are implementing the spirit of that and doing it effectively.

The Hon. R.I. LUCAS: So, what is the answer to the question on Origin?

The Hon. P. HOLLOWAY: As I said, it can be if it is necessary to do it. What is important is the bottom line.

The Hon. R.I. LUCAS: Who makes the decision? Is it the Commissioner who makes the decision as to whether it is necessary for Origin to supply all customers within its market segments or is it someone else's decision?

The Hon. P. HOLLOWAY: Section 36AA(1) provides:

> This section applies to an electricity identity holding a licence authorising the retailing of electricity that is declared by the Governor under this section to be an electricity entity to which this section applies.

It is the government, I guess, in effect.

The Hon. R.I. LUCAS: It is your policy.

The Hon. P. HOLLOWAY: It is the government.

The Hon. R.I. LUCAS: Given that we are about to enter a market in January next year, AGL is the dominant retailer, Origin has indicated that it may well be competing in the marketplace early next year and TXU has indicated late next year. If it is the government's policy, will the minister indicate from the government's viewpoint whether it is the government's intention to require Origin to comply with point 4 of the Labor Party policy, that is, it will have to supply all customers within their market segments, particularly within the household market?

The Hon. P. HOLLOWAY: That is a hypothetical question. Why do not we wait and see what is the structure of the industry?

The Hon. R.I. LUCAS: That is absolute garbage. Origin is a major company in Australia in terms of the electricity and gas industries. It already provides gas to a number of residential or household customers and are the most likely company to compete against AGL. I would have thought that from the government's and community's viewpoint we would be supporting a position that encouraged competition with AGL from January next year. The minister in response to my question as to what conditions will apply to Origin from the government's viewpoint from 1 January next year, says that that is a hypothetical question and he will not answer it. If that is the way this government will treat competition in the retail sector, it will make for an interesting debate on talkback radio and elsewhere. That is the attitude of this government when sensible questions are asked about Origin Energy's position in the marketplace and its capacity to compete with AGL in the marketplace for household customers from 1 January. The minister says it is the government's decision, that it is hypothetical and he will not give an answer.

The CHAIRMAN: We should take a deep breath. We are now starting to get into debate on matters which are actually covered in the bill. Looking at page 17, under 'Industry Codes and Rules' it states:

> (1) The commission may make codes or rules relating to the conduct or operations of a regulated industry or regulated entities.
>
> (2) The commission may vary or revoke a code or rules made under this section.

So, most of the stuff that is now becoming the subject of a debate is in the code. The point was made by the Hon. Mr Gazzola about the way the committee was heading. I have made the point that we do on many occasions try to get a lot of these preliminary questions out. I am of the opinion that we are now starting to debate issues about the 9-point plan of the Labor Party prior to going to the election, when many of the questions being asked are addressed, I believe, within the conditions of the bill and should rightly be discussed as we go through the bill.

I ask both the Leader of the Opposition and the minister—and I am not suggesting that either side is trying to be deliberately evasive or hold up the work of the committee, but we are getting a little circular in the argument—to try to get these matters out of the way as quickly as possible so that we can address the particular sections of the bill as soon as possible after the minister has had some time to respond to any of these preliminary questions on which he has not been satisfied with the answers tonight. I draw the attention of both sides of the argument to those matters and ask members to proceed as expeditiously as possible on this section of the committee's deliberations.

The Hon. P. HOLLOWAY: AGL is a monopoly retailer at the moment, so essentially the ALP policy was seeking to ensure that the customers would have a fall-back position. Obviously since AGL is the monopoly retailer, it is obviously the one to which the customers would fall back to. When there are new retailers in the market, which hopefully there will be, they will be seeking to draw customers away from the monopoly retailer AGL by offering them lower prices.

Obviously we have to take into consideration the structure of the market we have, that is, with the monopoly retailer being AGL presently. I guess the answer to the leader is, effectively, no at the present stage. It is not a matter of requiring new retailing entrants to provide a fallback situation because that does not reflect the structure of the market.

The Hon. R.I. LUCAS: In order to conclude that section of the commitments, the Labor Party said it would end special deals allowing retailers to supply only to low risk customers or high income areas. That obviously relates to the last question. Will the minister indicate whether this bill or the Electricity (Miscellaneous) Amendment Bill implements that particular policy commitment?

The Hon. P. HOLLOWAY: I think the answer to the leader's question would come under the definitions in the Electricity (Miscellaneous) Amendment Bill. Clause 3, paragraph (g) provides:

> 'small customer' means a customer with an annual electricity consumption level less than the number of MWh per year specified by regulation for that purpose, or any customer classified by regulation as a small customer;

The Hon. R.I. Lucas: How does that end special deals?

The Hon. P. HOLLOWAY: It means that the provisions can be applied to a particular group of small customers. That is the definition of 'small customer', so if one can apply

special conditions to small customers it enables particular groups to be so selected.

The Hon. R.I. LUCAS: I understand that, but the government's promise was that it would stop that. The government's promise was that Labor would end special deals allowing retailers to be so selective. The minister has to explain how the government does it.

The Hon. P. HOLLOWAY: It is an inclusion, not an exclusion, so they would have to treat them equally. I suppose we need to go to the relevant clause in the act to which that definition would be relevant.

The Hon. R.I. Lucas: The main one is section 35, which relates to prices justification.

The Hon. P. HOLLOWAY: And 3AA is another.

The Hon. T.G. ROBERTS: I rise on a point of order, sir. I raise the same point of order that has been raised previously. Parliament is here to test the legislation. It is the role of the opposition to test the government's policy after the legislation has been passed. What we are doing here is applying a policy test to legislation in debate. It seems to me to be the wrong function of the committee.

The Hon. R.I. Lucas: Can I ask whether or not something is in the legislation?

The Hon. T.G. ROBERTS: My point is that it is up to the opposition to test the legislation after the bill has been debated and finalised. It is not up to the—

The Hon. R.I. Lucas: How can you do it after the bill has been finalised?

The Hon. T.G. ROBERTS: You then test the final bill against the party's policy.

The Hon. R.I. Lucas: That's novel.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! There is no point of order. The chairman made a significant statement earlier, which, I understand, the Leader of the Opposition would have taken on board.

The Hon. P. HOLLOWAY: I referred earlier to clause 11 which amends section 24 of the Electricity Act. I referred to paragraph (d)(e) which provides:

> requiring the electricity entity to comply with code provisions as in force from time to time (which the commission must make under the Essential Services Commission Act 2002) relating to standard contractual terms and conditions to apply to the sale of electricity to small customers.

Under that provision the electricity entity must comply with code provisions in force relating to the sale of electricity to small customers. If we then refer to the definition of 'small customer' to which I referred earlier, I believe that that addresses the point raised by the Leader of the Opposition.

The Hon. R.I. LUCAS: To comply with your wishes and the chairman's, I will not persist with debate on that issue—and the wishes of the Hon. Mr Roberts whose novel suggestion I will quote back to him one day. I do not agree with the Hon. Mr Roberts' suggestion, either. I think the minister will be pleased with this question because it is the one area where I think he can answer yes. One of the commitments from Labor is that it will provide the commission with strong new powers to investigate and, if necessary, prosecute transmission, distribution, retail or generation companies that fail to meet acceptable standards of reliability and maintenance. Will the minister confirm that that policy commitment has been implemented in this bill and in the Electricity (Miscellaneous) Amendment Bill?

The Hon. P. HOLLOWAY: Yes.

The Hon. R.I. LUCAS: We have finally found one promise that it can say it has implemented. In my second reading contribution I gave the minister and his advisers some forewarning of a general issue on which I sought advice from the government; that is, in relation to the work that had been done for the former government's IES, and the advice provided by Price Waterhouse Coopers and Charles River Associates, I think. It would be very simple if the minister has received advice which indicates that the latest assessment is that the IES scenario, or whatever, is closer to where we are.

If the minister's advice is that that work has not been done, I have some specific questions to try to flesh out what capacity improvements have been made both in Victoria and South Australia so that I can make my own judgment in relation to this issue. There is a shortcut to this: if the minister's advisers have taken on board my questions in the second reading, I will be pleased to receive the advice; if not, I will proceed with some questions.

The Hon. P. HOLLOWAY: I did answer in my response earlier, and perhaps I can—

The Hon. R.I. Lucas: No, I have seen that, so don't worry.

The Hon. P. HOLLOWAY: I do not know how many there were, but was this one of the consultancies that cost $300 000 or $400 000, or a couple of them that the leader announced. I remember that I sought some information from him under an FOI just before the last election. Certainly, an enormous amount of money was spent by this government on consultants. That is one of them. But let us not raise the issue of consultants now.

The point is that the new government has taken a different track. The point I made earlier was that we believed it was better that the regulator gain access to the electricity retailers' books so that the costs could be examined. That is really what this bill is all about—examining those books and making sure that the price for electricity is justified. That is the purpose of the bill. What some other consultants—presumably very expensive consultants—determine about it might be all very nice, but it will not help us much. We need a process by which we can ensure that the public is not being overcharged for electricity.

The Hon. R.I. LUCAS: Can the minister or his advisers indicate whether the SNOWVIC 400 megawatt interconnector capacity project, which is to supply an additional 400 megawatts of power to Victoria and South Australia, is on track and when might it be operational?

The Hon. P. HOLLOWAY: I am not sure to which clause in the bill this relates. But I appreciate the difficulties under which we are operating, because the member of the Democrats responsible for this bill is away sick; therefore, we have to deal with all these matters under clause 1 rather than dealing with them specifically as we go through. I will have to come back with an answer in relation to that matter.

The Hon. R.I. LUCAS: Perhaps, to expedite matters, I will place on the record the specific questions so that the government and its advisers do not have to make a judgment. I have put my first question in relation to SNOWVIC on notice. My other questions are:

1. Can the minister or his advisers provide information as to whether the 450 megawatts of gas turbine capacity, which was assumed to be developed in Victoria (which, for the benefit of the advisers, was 300 megawatts at Edison Mission and 150 megawatts at AGL), has proceeded and is operational?

2. Has the 220 megawatts of peaking capacity in South Australia—that is, both the AGL and Origin plants—

proceeded and is it operational? Certainly, the plants are operational: I guess the question relates to the 220 megawatts.

3. Does the government agree with the view that energy will be flowing from MurrayLink this month or next month—200 megawatts of additional capacity?

4. In relation to AGL and Origin, the high capacity outlook scenario that IES looked at was 420 megawatts of peaking capacity in South Australia—AGL and Origin. My dim recollection was that that was probably an increase in the Origin project, but I seek advice from the minister in relation to that matter.

5. I refer to the prices that were quoted in the IES report to the former government—and I am going on memory here: I quoted from the second reading, and I think it was $45, $58 and $78. I raised the issue that the NECA prices that I pulled off the NECA web site were a different price series to the price series that IES had used for the former cabinet. I seek advice from the minister as to whether his advisers have some apples and apples figures, if I can put it that way, that they could bring back in relation to the most recent NECA prices, perhaps on an average, that existed here for the last 12 months (I think I quoted those figures). Is it possible to do an apples and apples comparison with the figures that IES has produced? If the minister is prepared to take that on notice to see what information the advisers could bring back when next we discuss the issue, that might save us having to go through all this tonight.

The Hon. P. HOLLOWAY: We will endeavour to be reasonable and provide what information we can, but that last question particularly, with the leader talking about NECA prices, really has little to do with this bill, and I suggest that they are really little short of being mischievous. What relevance do current NECA prices have to do with the provisions of the bill? It is really stretching it beyond the limit.

The Hon. R.I. Lucas: Would you like me to explain?

The Hon. P. HOLLOWAY: Please do.

The Hon. R.I. LUCAS: In this legislation, we are about to give the soon to be appointed Essential Services Commissioner the power to conduct an inquiry into prices in the marketplace. The NECA prices will give some indication of the prices that currently exist. It will not necessarily indicate what will exist in the future because it will be a contractual arrangement between retailers and generators, but a key part of all this legislation is a prices justification mechanism for the small customers in the marketplace that the minister has just been referring to. I would have thought that a key part of all this is the prices that exist.

As I pointed out, one of the concerns that the opposition has with this legislation, and with the current process, is that we have a regulator who is in the marketplace talking of significant price increases of 20 to 30 per cent or more. We have ministers of the Crown talking of price increases of that order, when it is the Independent Regulator who has to make a decision as to what is the appropriate level of price increase once these powers are given to him. I have a different view from the government and the regulator as to what is an appropriate course of action for the regulator under the new powers that he is to be given. Ultimately that is a decision for him, not for me in opposition, I accept that, but equally the opposition is entitled to comment on this legislation and on how the regulator will approach this prices justification mechanism.

It is important if the price in the marketplace is being talked up 20 to 30 per cent or more by the regulator and others. As I have indicated, the former government was provided with advice which indicated that, in the worst possible set of circumstances, that is, the AGL five-year contracts, for the average household the price increase, without hot water, would be 12 per cent and with hot water it would be 14 per cent. I accept what the minister has just said, that the work that has been done by the advisers is their best work at the time and the circumstances might have changed.

What I am trying to establish on behalf of consumers in South Australia is what has changed since the work was done in December last year by the best advisers that the former government could put together, not just one, but two others. Before the minister is disparaging in relation to the capacity of consultants, the Independent Regulator has been and will be taking advice from independent consultants in relation to this thorny question. In the interests of consumers in South Australia, it is important that we get as much information as we can to try to ensure that we get as low an increase as possible, rather than just accepting, as the ministers of the government are accepting, and as the regulator has been saying, that we have to accept a 20 to 30 per cent price increase. In the end, if that is the case—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: That is what both ministers and the Independent Regulator said. I quoted them in my second reading contribution. If that is what happens, so be it. The Independent Regulator will do the work and, in the end, if he makes the judgment that it is a 20 or 30 per cent increase, so be it. I am saying that advice was provided to the former government and never publicly released because we understood that the work was done late last year and that it would be at least 12 to 15 months before we went into full retail contestability. However, we are now eight to 10 months down the track—we are only three to four months away from 1 January—and AGL must indicate its prices, I think, sometime in October.

So, we are within a couple of months of AGL's having to indicate what prices it wants, and the regulator must bring down a decision soon after that in relation to 1 January. It is not hypothetical: it is absolutely to the core of what this legislation and the electricity bill are all about, that is, what is a reasonable level of price for the retailers, such as AGL.

The Hon. R.K. SNEATH: I rise on a point of order, Mr Chairman. The opposition leader is making a statement. I understood that the committee stage provided an opportunity for members to ask questions, not to make a statement or a speech.

The CHAIRMAN: There is the opportunity for all members during committee to make a statement, but I am concerned that we are getting back into the realms of the debate. In fairness, the Leader of the Opposition did say that he mentioned many of these matters in his second reading contribution and, given that they have been mentioned in his second reading contribution, it is disconcerting at this late hour that we are going back over a lot of ground we have already traversed. I understand the concern of members on the backbench that it is a long and tedious debate and that many of these matters we are discussing are capable of being addressed in each clause of the bill. I did make the determination earlier that we would go through this process as an act of good faith from both sides of the chamber to try to get many of these matters out of the way in this the second clause of the bill. I think we will try to get to the end of that as soon as we possibly can. I ask all members for their forbearance

and ask the two main protagonists to confine their remarks to succinct points they need to have clarified so that the committee can do its work and we can get on and do some other business.

The Hon. P. HOLLOWAY: We will endeavour to do that. One point that needs to be made is that the prices on the web are spot prices and not the contract prices that would ultimately determine the prices that customers pay. The leader has made great play on the comments about the 20 to 30 per cent increase. We all know that last year when small business customers were deregulated those customers, I think on average, incurred increases of 30 per cent, and in some cases it was up to 90 per cent. It is scarcely surprising that those sorts of increases, given that they were the actual increases for small business customers, should have been widely used as a base. It is quite wrong for the leader, I believe, to be suggesting that ministers, the Essential Services Commissioner or anyone else will accept price increases of that order just because some comments have been made in the press—I think in some cases many months ago—in a different context.

The Hon. R.I. Lucas: Comments were made in June and July of this year.

The Hon. P. HOLLOWAY: Again, one must look at the context in which those comments were made.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, yes, I think that the leader might have put into *Hansard* some quotes in his second reading contribution, but they must be looked at in context, and we will just have to wait and see whether that result will ultimately be accepted.

The point is that we are debating the bill tonight in order to set in place a mechanism where the Essential Services Commissioner can ensure that the prices that South Australian consumers pay for electricity after 1 January next year are justified. That is the whole purpose of the bill. Given what the leader is doing, perhaps if the officers who are here tonight were able to get on with doing some of that work, we would be better placed when full retail contestability comes on 1 January next year. We are hoping to get this bill through this week to enable these officers to get on and do the very considerable work they have to do to be prepared by that time.

The Hon. R.I. LUCAS: As I understand it, the minister indicated that, although it might be difficult, officers will try to provide what information they can. To wrap up this section on possible price increases, in his response to the second reading today, the minister said:

> Rather than rely on economic predictions based on numerous assumptions that may or may not prove correct, we [the government] have taken notice of the advice on possible price increases provided by AGL at an energy conference at the Hilton Hotel.

Without prolonging the debate, I hope that the government and the Regulator are relying on more than AGL speaking at an energy conference. If that is what is guiding the government in relation to pricing structures, we have some concern. I am sure the Regulator will not be relying on that—

The Hon. P. Holloway: Of course not. That was the process we are setting up.

The Hon. R.I. LUCAS: I put these questions in the second reading, and that was the reply that I got from the minister: that they were not relying on the assumptions that had been made before and that the government had taken notice of the advice on possible price increases provided by AGL at an energy conference. Surprise, surprise: as a retailer, AGL will put into the marketplace as high a price as it thinks it can get away with. That is part of its business.

The Hon. P. Holloway: It has to be justified to the Essential Services Commissioner; that is the purpose of this bill. That is what we are setting up here.

The Hon. R.I. LUCAS: And a regulator should not be out there in the marketplace putting in price increases that he thinks are fair. The quotes to which I referred in June related to the news that there would be a round of possible increases of 20 or 30 per cent or more; that is probably a fair reflection of those market prices that I mentioned. The article in the *Advertiser* last week—in August—from Mr Owens stated:

> People on fixed incomes do not have the capacity to pay expected rises of 20 or 30 per cent. 'The numbers that are being bandied about I can tell you are true,' Mr Owens said.

I will not persist with this at this stage; we can do this later. I think we all want to go home. You do not see the Gas Price Regulator, Professor Scott, who has been going through a long process of looking at gas prices, out there in the marketplace saying, 'I think 5, 10, or 20 per cent is a fair price; these are the market prices that are being bandied about.' Regulators in other states do not go into the marketplace and put those prices about.

The opposition has a different view, and I have a different view from that of the Regulator or the minister as to what is an appropriate process. I accept that in the end it is not my judgment but that of the Regulator; nevertheless, the opposition can express its position. If a climate is created in which an increase might be of the order of 30 per cent, when the Regulator comes in with a price of 10 per cent, I can assure you that the government will say that it is this tough new legislation that has resulted in this 10 per cent price increase when it was going to be 30 per cent.

I indicate to the government that the advice to the former government was that, under various scenarios for the average household, the price increases would be between 12 per cent under a no-development scenario and some price reductions. That ought to be in the marketplace as well as some of the predictions that others have made in this area. I will leave the other questions to the individual clauses as we go through them when Messrs Elliott, Xenophon and Cameron and whomever else is unable to be with us this evening can rejoin us. We can then go through those provisions.

I place on notice that a couple of questions have been put to me about possible amendments to the legislation. The opposition has made no decision at this stage and would be interested to know whether the government's advisers think there is a problem. One of the areas is that, under the Essential Services Commission Bill, clause 23, I think, talks about the performance plan and the budget of the Regulator. The great strength of the Independent Regulator's office in its first conception, and now the Essential Services Commission, is its independence of government. This clause gives quite explicit powers to the minister of the day over the operation of the Independent Regulator's office. In relation to the budget, I think that is probably a fair reflection of what already occurred indirectly—at least in the aggregate and not necessarily in terms of the detail.

In relation to the performance plan, the minister will have the power effectively to dictate major projects, priorities and goals to be undertaken in the performance plan of the commissioner. The minister has the power to reject and amend the Regulator's performance plan. It would seem that that has the capacity, if exercised by a minister, to cut across the independence of the Regulator. Certainly, one or two

people who have looked at the legislation for me have raised the issue that this is inconsistent with the original structuring of the legislation.

So, I raise the question, place it on notice and seek a reply from the minister as to whether the Regulator has any concern that it may well cut across his independence if the minister has the power to actually refuse to accept a performance plan and to amend it in terms of his or her operations.

The Hon. P. HOLLOWAY: I make the comment that I am sure that the current industry regulator operates under a particular budget, or has in the past under the leader when he was Treasurer. I am sure that there was a particular budget under which the Industry Regulator was required to operate.

I should also make a comment at this point about the earlier statements of the leader. Quite clearly, he was saying that he does not have any confidence in Lew Owens. That is effectively what he was saying when he criticised Lew Owens for making statements in relation to possible prices of electricity. I suggest that one would need to look at the context in which Mr Owens made those statements. Certainly, when I have read Mr Owens' statements—and I have read a number of them—they are usually qualified in terms of what may or may not happen in certain scenarios. But all I can say is that Mr Owens, of course, was appointed by the previous government—I think by the former treasurer himself—and this government has full confidence in Mr Owens to do the job.

The Hon. R.I. LUCAS: The opposition continues to have full confidence in Mr Owens to undertake the tasks that, as the minister indicated, he was asked to do. It does not mean that, when he does things that we disagree with, we will not disagree with him—as, indeed, is the case with the Auditor-General.

The minister talked about the budget. That was not the issue, as I indicated. That has been informally the case, anyway, so that the change makes explicit what was already informally the case. The issue I raise is in relation to the performance plan which is now required of the Regulator, and the capacity for the minister to direct changes to it. Certainly, I have no recollection of either having the power or, indeed, exercising the power to ask the Regulator to provide me with an annual performance plan and to amend it.

If the minister has different advice on that, I would be pleased to receive it. Also just to flag another area in relation to coordination agreements under the electricity act, as I read the powers to be given in relation to the Essential Services Commissioner for coordination agreements, the commission can direct a distribution licensee to enter into a coordination agreement with a retailer. When we reach that clause, I will have some specific questions in relation to it. Does the government believe that the commission should also have the power to direct a recalcitrant retailer to enter into such an agreement? Why does the drafting direct only the distribution licensee and not also a retailer?

I am assuming the answer to the question I put in the second reading is that the government has taken no further advice since 5 March on the potential price increases for small customers from 1 January. I think that is probably a fair inference to be drawn from the minister's earlier replies, but I seek confirmation of that when next we convene.

The Hon. P. HOLLOWAY: We are trying to work it out. It does not matter what some study says; what matters is what is determined by the Essential Services Commission.

The Hon. R.I. LUCAS: I am not interested in an argument or debate. I was just interested in a clarification as to whether it was a fair inference to be drawn that no further work had been done by this government on possible price increases after 1 January.

The Hon. P. HOLLOWAY: It is all about limiting the price increase.

The Hon. R.I. LUCAS: I am not arguing with that. I am just asking whether any further work had been done by the government on this area. I take it from the interjections from the minister that the answer to the question is that no further work has been done by this government since 5 March, in almost six months, on potential price increases after 1 January. I also ask the minister to take on notice the following question, because it will be up to the Independent Regulator to provide this advice: has the Independent Regulator appointed consultants to assist him in the task of this prices justification job that he is about to be given in relation to small customers post 1 January next year? If he has appointed consultants already, can he indicate the names of those consultants, when they were appointed and say what are the broad contractual details, in particular the payment details, for those consultants appointed by the Independent Regulator? In particular I include legal, economic and accounting advice that might have been provided, as sought by the Independent Regulator.

My last question to the minister relates to the drafting of this legislation and also the electricity bill: was any advice sought from any legal advisers other than Crown Law in terms of the drafting of this bill and the electricity bill?

The Hon. P. HOLLOWAY: As I said earlier, I will endeavour to get what information we can, but certainly the penultimate question asked by the leader was, I believe, really going way beyond what is normally done in connection with the committee stage in seeking that sort of information. It has little relevance to the bill; it has more to do with an estimates type of question than with this particular bill but, nevertheless, we will seek to provide what information we can in relation to this bill.

Again, let me correct the record. We know that the leader is a past master at misinterpreting interjections. Let me make it quite clear that ever since this government was elected on 5 March it has been fully focused on the question of full retail contestability and restricting the price increases that small customers will face on 1 January 2003. So, for the leader to suggest that we have done nothing is completely false. Indeed, this bill is all about achieving that very objective.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.36 p.m. the council adjourned until Tuesday 27 August at 2.15 p.m.