LEGISLATIVE COUNCIL

Monday 12 May 2003

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 227 to 230.

EYRE REGIONAL HEALTH SERVICE

227. **The Hon. SANDRA KANCK:** In regard to the Eyre Regional Health Service—

1. (a) What is the job description for Mr. Ian Matthews, Regional General Manager?
   (b) What is the job description for Mr. Gary Stewart, Acting Regional General Manager?
   (c) At what classifications are Mr. Matthews and Mr. Stewart being paid?
2. (a) How long has Mr. Stewart acted in the position of Regional General Manager?
   (b) On what basis was he selected?
   (c) When and how was the position advertised, or expressions of interest sought from suitable candidates, before a selection was made?
3. (a) Have Mr. Matthews and Mr. Stewart both attended the same meetings for regional council managers in Adelaide or other places?
   (b) If so, why?
   (c) When and where did such meetings occur and what was the cost to the taxpayer for travel and accommodation for each person on each occasion?

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

1 (a) A copy of the job description for Mr Matthews is attached.

1 (b) Mr Stewart has operated under the same job description as that applicable to the regional general manager

1 (c) Mr Matthews is being paid at Ex-B level. Mr Stewart is being paid as an ASO7 with an allowance being paid equal to the difference between his substantive position and that applicable to the regional general manager position for superannuation purposes.

2 (a) Mr Stewart has acted in the position since 18 July 2002.

2 (b) Mr Stewart was appointed by the board of Eyre Regional Health Services on a temporary basis.

2 (c) Mr Stewart was appointed without the position being advertised as the likely period of absence of Mr Matthews was not known at the time. This absence was due to serious illness in Mr Matthews' family, and subsequently incorporated Mr Matthews himself becoming quite ill and requiring surgery. At the time of the appointment the length of absence was thought to be of a short duration. This has subsequently been proven to be incorrect.

3 (a) Yes.

3 (b) Due to the nature of the illness encountered by Mr Matthews and his family, he returned to work on a sporadic basis, and often would require time away from work at short notice. The dual attendance was considered necessary to ensure that both officers were fully informed and participated in the normal management activities of the region.

3 (c) All meetings of the country regional general managers group occur at the Lakes Resort Hotel at West Lakes.

Mr Matthews and Mr Stewart both attended meetings on the following dates: 16 December 2002, 20 January 2003 and 17 March 2003.

Costs applicable are:

16 December 2002:
- Airfares
  - G. Stewart $290
  - I. Matthews $217
- Accommodation
  - G. Stewart $125
  - I. Matthews $125

20 January 2003:
- Airfares
  - G. Stewart $280
  - I. Matthews Nil
- Accommodation
  - G. Stewart $125
  - I. Matthews Nil

N.B. Mr Matthews was present in Adelaide for personal reasons and personally met the costs applicable to his travel and accommodation.

17 March 2003:
- Airfares
  - G. Stewart $245
  - I. Matthews $Nil
- Accommodation
  - G. Stewart $125
  - I. Matthews $Nil

N.B. Mr Matthews attended this meeting as he was already attending Adelaide to be present in relation to Radiology arrangements applicable to Port Pirie, Port Augusta, Whyalla & Port Lincoln Hospitals.

228. **The Hon. SANDRA KANCK:** In regard to the Port Lincoln Health Service—

1. (a) What was the cash position at the end of each month for the period December 2000 to February 2003?
   (b) How did the cash position for each month compare to the budgeted position?
2. (a) What was the acute activity level for each month for the period December 2000 to February 2003?
   (b) How did these levels compare with the allocated activity budget for each month?

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

1. (a) and (b) The cash position and the budgeted position for each month for the period December 2000 to February 2003 is as follows:

Month	Budgeted Expenditure	Actual Expenditure	Variance	Variance
	$000s	$000s	$000s	%
December 2000	1 096	1 278	-182	-16.6%
January 2001	798	921	-123	-15.4%
February 2001	804	842	-38	-4.7%
March 2001	834	863	-29	-3.5%
April 2001	803	871	-68	-8.5%
May 2001	1 091	1 138	-47	-4.3%
June 2001	1 429	950	479	33.5%
July 2001	787	853	-66	-8.4%
August 2001	748	811	-63	-8.4%

Month	Budgeted Expenditure	Actual Expenditure	Variance	Variance
	$000s	$000s	$000s	%
September 2001	923	1 000	-77	-8.4%
October 2001	856	1 497	-641	-74.9%
November 2001	886	1 064	-178	-20.1%
December 2001	1 255	907	348	27.7%
January 2002	780	927	-147	-18.8%
February 2002	808	887	-79	-9.8%
March 2002	820	904	-84	-10.2%
April 2002	399	523	-124	-31.1%
May 2002	1 743	1 658	85	4.9%
June 2002	1 034	978	56	5.4%
July 2002	1015	1 074	-59	-5.8%
August 2002	826	874	-48	-5.8%
September 2002	933	987	-54	-5.8%
October 2002	977	1 029	-52	-5.3%
November 2002	1 164	1 336	-172	-14.8%
December 2002	939	887	52	5.5%
January 2003	878	927	-49	-5.6%
February 2003	848	846	2	0.2%
Total	25 473	26 832	-1 359	-5.3%

2. (a) and (b) The acute activity level and allocated activity budget for each month for the period December 2000 to February 2003 is as follows:

Month	Budgeted Equiseps	Actual Equiseps
December 2000	261	286
January 2001	228	200
February 2001	247	266
March 2001	261	272
April 2001	220	221
May 2001	268	282
June 2001	276	255
July 2001	250	237
August 2001	265	282
September 2001	265	309
October 2001	260	273
November 2001	250	310
December 2001	250	235
January 2002	246	202
February 2002	246	263
March 2002	255	253
April 2002	270	258
May 2002	273	313
June 2002	270	247
July 2002	270	265
August 2002	270	292
September 2002	280	256
October 2002	280	252
November 2002	270	272
December 2002	240	256
January 2003	200	219
February 2003	240	254

SPEED CAMERAS

229. **The Hon. T.G. CAMERON:**

1. Would the minister list the number of motorists caught by speed cameras for the year 2002 by day of the week?

2. Would the minister list the number of motorists caught by laser guns for the year 2002 by day of the week?

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

Expiation notices issued in relation to speed offences are recorded by date. The data captured by SAPOL's expiation notice system does not include the day of the week.

230. **The Hon. T.G. CAMERON:** During the 2001-2002 financial year—

1. What were the top ten South Australian roads and/or highways which recorded the most people killed or injured as a result of motor vehicle accidents?

2. How many times were speed cameras located at these locations?

3. How much revenue was raised at these locations as a result of the speed cameras?

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information for the 2001-2002 financial year:

Location	Number of Crashes	Number of casualties	Number of Speed Cameras at location	Revenue of Cameras
Main North Rd	401	286	685	$2 729 136
South Rd (North of Ayliffes Rd, St Marys)	335	459	557	$1 746 458
Main South Rd (South of Ayliffes Rd, St Marys)	238	158	402	$1 792 911
Grand Junction Rd	139	197	398	$1 439 650
North Tce	113	149	80	$192 605
Marion Rd	105	137	162	$227 834

Location	Number of Crashes	Number of casualties	Number of Speed Cameras at location	Revenue of Cameras
Port Rd	105	134	978	$2 672 319
Anzac Hwy	96	137	539	$1 329 990
Port Wakefield Rd	85	111	277	$1 592 748
Payneham Rd	85	119	124	$243 841
TOTAL	1 702	1 887	4 202	$13 967 492

WORKCOVER

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on WorkCover reform made by the Hon. Michael Wright in the other place.

STATE DEVELOPMENT

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a ministerial statement relating to the framework for South Australia's economic development made in another place by my colleague the Premier.

QUESTION TIME

MENTAL IMPAIRMENT DIVERSION PROGRAM

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Justice, a question about the mental impairment diversion courts.

Leave granted.

The Hon. R.D. LAWSON: Although this matter comes within the portfolio of the Minister for Justice and the Attorney-General having responsibility for the Courts Administration Authority, it also affects the Minister for Correctional Services, whose department is affected by the results of the Magistrates Courts mental impairment diversion program. This diversion program began as a pilot in 1999 and in the Courts Administration Authority's latest annual report it is noted that the program is providing limited services to courts at Christies Beach, Holden Hill, Elizabeth, Whyalla and Port Augusta in addition to the Adelaide Magistrates Court.

It is noted in the latest annual report that staffing levels have increased modestly but additional funding was then needed to expand the program into other regional areas and to provide additional service. The program was designed to meet the needs of those people who appear in the Magistrates Court and who have committed certain minor indictable and summary offences but who have impaired intellectual or mental functioning—

Members interjecting:

The PRESIDENT: Order! There are too many audible conversations in the chamber.

The Hon. R.D. LAWSON: This is a showcase program for South Australia, and a number of interstate and overseas justice agencies and judicial officers have shown great interest in it since its establishment, as I said, in 1999. The latest annual report of the Courts Administration Authority shows that the program was used by a number of persons coming within the purview of the court system. However, it was recently reported that funding shortages have created a backlog for this particular program, and the magistrate in charge, Mr Iuliano SM, has pointed to the fact that there are growing waiting lists and that the program is undermined because early investigation to prevent imprisonment is one of its key objectives. My questions to the minister are:

1. Is the government committed to the development and expansion of this Magistrates Court diversion program?
2. Does the government accept that the program has been beneficial and is worthwhile?
3. Does the minister agree that the program is in danger of not fulfilling its function because of limited funding?
4. What does the government intend to do about it?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his questions and, as he says, it is a matter of responsibility for the Attorney-General in another place. As Minister for Correctional Services, there is a difficulty in dealing with prisoners or people on remand with mental health problems. It is one of those problems that appears to be getting worse rather than better, and I think that is the experience of corrections and the justice system statewide. I will refer those important questions to the Attorney-General in another place and bring back a reply.

NATIONAL LIVESTOCK IDENTIFICATION SCHEME

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the National Livestock Identification System (NLIS) for cattle.

Leave granted.

The Hon. CAROLINE SCHAEFER: As was discussed in our last sitting week in this place, the NLIS has the potential to protect an industry which is worth millions of dollars to the state's economy and which employs thousands of South Australian people. It is particularly important to those who wish to export livestock, and in this case cattle. On 29 April I asked the minister of his intention to implement the NLIS for cattle as agreed by all state primary industries ministers at the recent Primary Industries Ministerial Council.

The minister conceded that an agreement was reached to implement the scheme by 1 July 2004. However, he would not commit to any type of government assistance for individual cattle producers in the implementation of the scheme. However, he did concede that an economic impact study was well under way with regard to that particular scheme. It is my understanding that the minister had agreed to release the findings of the economic impact study at the livestock committee meeting of the South Australian Farmers Federation, which was held last Friday 9 May, and to discuss the findings at that meeting. As I understand it, the minister did not release any details of the study's findings at that meeting, or anywhere else, and he has indicated that he does not intend to do so at this stage. My questions are:

1. Why has the minister not released the economic impact statement into the NLIS? When does he intend to do so?

2. Will the minister commit to any type of assistance for cattle producers in the implementation of the NLIS?

3. Is his refusal to release all or part of the economic impact study an indication or an admission by the minister that the study paints a gloomy picture for individual producers?

4. Further, does this indicate the government's intention not to support the cattle industry in the implementation of a scheme that the minister has already agreed to implement?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The shadow minister asked why I have not released the economic impact statement; the reason is that it is not yet finished. Certainly, officers of my department met with the Farmers Federation about these issues last week, but it was never the intention that the economic impact study would be released at that meeting. I have not yet seen the statement because it has not been completed. I checked with officers of my department last week. The study is nearing completion, and I am led to believe that it should be finished in the next few weeks.

It is certainly not completed at this stage. However, that does not preclude discussions between my department and the cattle industry about this important matter. As the opposition spokesperson pointed out in her statement, I think the words of the Primary Industries Ministerial Council were that the government was committed to 'use its best endeavours' to try to have this working by 1 July next year; certainly, we intend to do so.

As I indicated in my answer to the previous question, obviously there is a need for significant discussion with the industry. I am certainly not ruling out that the government will not provide assistance to the industry; indeed, we have already done so. In last year's very difficult budget, one of the areas where we were able to allocate extra money was animal health. Part of that budget last year included assistance for cattle technology in relation to the NLIS. Indeed, some of our big saleyards, such as that recently opened at Dublin, have that technology. The state government has already provided some assistance, but how it addresses this matter with industry is something that we are currently negotiating, and I hope to be able to make an announcement about that in the near future.

I think the final part of the shadow minister's question was whether this indicated that the study paints a gloomy picture. I have not seen the economic study yet, but certainly a number of discussion papers are listed on the NLIS, including one that was prepared under the previous government that considers all the options in relation to the NLIS. No doubt this system will have a significant impact. Obviously, it is very important for the cattle industry, as is NFIS for the sheep industry, but different parts of those industries will have different needs. If parts of those industries are producing for the domestic market, their need will be less than for the beef cattle industry which, of course, is largely an export industry.

Clearly, the main benefits of the National Livestock Identification Scheme are trace back and trace forward so that if there is an outbreak of a major animal disease (and we hope that never occurs) it will enable us to trace that disease and, therefore, minimise its impact on the industry. Obviously, some parts of industry, if it is serving the domestic market, will not necessarily be as affected.

Under the ministerial council agreement, there was some scope for state governments to adjust the level of operation under the NLIS. However, it is important that this should be a national scheme, so that if Australian meat products are exported anywhere in the world it is possible to trace back the source to a particular farm, so that any problems with health outbreaks can be speedily addressed.

Of course, that also means that not only does such a system benefit the whole country in terms of the reduction of the impact of animal diseases but it also has significant benefits for individual farm enterprises, enabling them to improve productivity. We believe that this sort of technology will provide significant benefits in terms of production as well, because, for example, it will enable farmers to monitor the growth of particular cattle and to have some feedback on information that should enable them to improve their productivity. There will be benefits to individual farmers as well. All these matters need to be taken into account in addressing costs. When that economic impact study comes out, one would hope that we would be able to put some figures on these particular benefits.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. If the EIS is not completed, as the minister has suggested, why were representatives of the cattle industry assured that it would be released to them on 9 May?

The Hon. P. HOLLOWAY: I am not sure who gave them that particular assurance, but it certainly was not me. In a press release put out by the shadow minister, I noticed she said that it was due on 9 May, but where the shadow minister got her information I am not sure. Certainly, I never indicated that that study would be available then. However, as I said, discussions were to take place with the industry. Without having the final version of that report I cannot say, but one would have thought that there could still be some productive discussions between the cattle industry and officers of my department. I certainly hope that that was the case, and I will certainly seek some feedback from the department to ensure that it was.

PUBLIC-PRIVATE PARTNERSHIPS

The Hon. R.I. LUCAS (Leader of the Opposition): My question is directed to the Minister for Correctional Services. Given the minister's professed strong views opposing privatisation, has he insisted that the new women's prison should remain publicly owned in any public-private partnership financing arrangement entered into by the Rann government?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The matter of the so-called privatisation of the prison system will not occur with the PPP project. That project is in the hands of another minister, the minister for—

The Hon. R.I. Lucas: You are the minister for prisons.

The Hon. T.G. ROBERTS: I am the minister for prisons, but I am not the minister in charge of the process of the PPPs—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: The situation is that we will not be having private management services, nor will we be having private organisations such as Group 4 in charge of the day-to-day administration and running of that prison. The situation in relation to the PPP is in the hands of minister Conlon, as the honourable member would probably know. The negotiations will be carried out in a way which benefits and which will be brought to bear by the government in relation to the building of the prison—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: The cabinet will decide on those matters which the honourable member finds very important—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: The circumstances under which the prison is built. If the option is no prison or a PPP, then obviously the PPP is the better way to go. The question of how human services are delivered within that prison is of paramount importance to me in relation to whether those people are directly responsible to the justice system and directly responsible to correctional services. That is one area on which we will be insisting. The circumstances in which the Mount Gambier prison was built are slightly different in that, from memory, it was a government owned building and a privately managed prison. That was the policy under the previous government. We will not be doing that.

The Hon. R.I. Lucas: Who will own the building?

The Hon. T.G. ROBERTS: The building—

The Hon. R.I. Lucas: It is a simple question.

The Hon. T.G. ROBERTS: It is a simple answer. Those negotiations have not been carried out. The PPP process has been long, it is detailed and it is still being negotiated. I am sure that the honourable member would not like us to negotiate in haste and bring back a prison with a PPP process from which the people of South Australia did not benefit. The prison will be built. It will be staffed by public servants responsible to the Correctional Services Department, and they are the key issues that a lot of people are concerned about. We will be building it as soon as possible, given the difficult circumstances we have with the women's prison. There is an urgency in relation to providing extra beds in this state because of the lack of investment that occurred over the previous decade. We will be doing it in a way in which the South Australian taxpayers' dollar is protected and so that we have a prison system that we are proud of. I am not sure whether that answers the honourable member's question, as far as what it is he would like to turn my answer into, but they are the circumstances.

The Hon. R.I. LUCAS: I have a supplementary question. Has the minister met with the unions involved in this issue and has he given them any assurance about whether it will be government owned or whether, as he seems to be indicating, the private sector should own the women's prison, about which he seems quite relaxed?

The Hon. T.G. ROBERTS: A number of meetings have been held in relation to the formation of the PPP. I am not in a position to be able to tell the honourable member the details of those meetings. I am sure that I can pass the question on to my colleague in another place and bring back a reply as soon as possible.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise the council what capacity the new prison will have in terms of inmates? Further to the answers that he has given me about prison capacity, can the minister tell the council what plans are being formulated by the government in relation to other prisons that are running to capacity or near capacity?

The Hon. T.G. ROBERTS: The capacity of the prisons I have passed on to the honourable member and to this chamber on a number of occasions. The situation we find ourselves in is that there is not a lot of spare capacity in the system. The women's prison is in an emergency situation because of the circumstances that have been allowed to fester within that prison. The number of beds that are required will be worked out in a bundling system, if we have to, and those decisions are being wrestled with at the moment.

There are also circumstances in relation to the ageing Yatala prison, which by all measures has served its useful life. Magill is also deteriorating. That institution is under another minister, the Minister for Youth, and it needs to be looked at in respect of change. A process is going on to examine all of the issues in our prison system as to whether we can build extra capacity in some of the existing centres or whether we need to put together an entirely new package that includes the replacement of Yatala. That is being considered at the moment, as is a replacement for the youth correctional services system that looks after young people in Magill. We are doing an overall assessment of all our needs. Not all decisions have been made. We are wrestling with the permutations that are possible and when we have made all those considerations in relation to the total prison system numbers I will be able to bring back those numbers for the honourable member at a later date.

OAK VALLEY SCHOOL

The Hon. G.E. GAGO: I seek leave to make a brief statement before asking the Minister for Aboriginal Affairs and Reconciliation a question regarding power generation in the Oak Valley community.

Leave granted.

The Hon. G.E. GAGO: I understand that the minister recently visited Oak Valley with the Premier and the Minister for Education and Children's Services to open the new Oak Valley School. Whilst I congratulate both state and federal governments on this outstanding new school, I understand that work has commenced on a new power station at Oak Valley. Will the minister outline what is happening with power generation at Oak Valley and the importance such a project might have in a remote community?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her continuing interest in Aboriginal affairs. On Sunday 4 May I attended the opening of the Oak Valley School with the Premier and the Minister for Education and Children's Services. It was a very important occasion for the Aboriginal people and others in that very isolated part of the state. I was very impressed with the new school and the way the community has got behind it. There were people from as far away as Ceduna and a lot of departmental people from Adelaide. The people involved in education over a number of years in Oak Valley were all in attendance. One of the elders in attendance had been involved in education services and was a teacher in the department in Oak Valley in about 1945-46, as he relayed it to me. The principal from Ceduna was also at the opening, as were other teachers who are very interested in the opening of the new Oak Valley School. The local federal member was there, and we have to thank the commonwealth for the funding assistance provided.

The PRESIDENT: Was something said about a power station?

The Hon. T.G. ROBERTS: Something was said about a power station. The power station is one of the improvements being put together in the community. The Oak Valley community, I can report to the council, is one of those communities that is quite functional. There is a lot of enthusiasm. The school is the centre of attention within the community. There is an aged care service there—

The Hon. Diana Laidlaw: And now they will be getting improved power.

The Hon. T.G. ROBERTS: Yes, and more reliable. The power project includes the construction of a powerhouse, building, associated services, the supply and installation of two new diesel generators and remote cooling radiators and the supply and installation of two new 30 000-litre fuel tanks as well as associated pumps and pipes. Also included are the new main switchboard and associated cabling, design, the supply and installation of a new automatic control system, the installation of a step-up distribution, transformers and high voltage cabling and the installation of a photovoltaic renewable energy system, including solar panels and storage batteries. Some aspects of the project include 21st century technology.

In addition to improving the reliability of electricity supplies to the communities in the Maralinga Tjarutja lands, the power project will have significant employment benefits to the local communities. CEDP workers from the Oak Valley community have already been involved in the clearing and preparation of the site so that construction work can begin, and the opportunities for local work—and I have spoken to a couple of young Aboriginal people there who were interested in becoming a part of the trade work force there—will continue during the construction phase. It is expected that the new powerhouse will be completed and operational early in the 2003-04 financial year.

So, there is a happy story to be told at Oak Valley. On the same visit I visited the Yalata community, and I am afraid there is a lot of work to be done in the Yalata community to bring it up to a functional community. But that work will be another challenge for the government in rebuilding some of the community services that appear to have deteriorated in that area over the short period.

The Hon. CAROLINE SCHAEFER: As a supplementary question: will the additional cost of powering the new power station be taken from the subsidy already supplied to Outback areas communities for power supply, such as Coober Pedy and Marla? If not, will the amount of subsidy be increased in this budget and, if it is increased, will all Outback areas benefit from this increase in subsidy, not just Oak Valley?

The Hon. T.G. ROBERTS: There are a number of supplementaries in that question. As far as the budget processes go, I am afraid the answer will have to be found in another fortnight, when the budget is brought down. As far as the other questions in relation to subsidies by the Outback Areas Lands Management Trust are concerned, I will have to refer those questions and bring back a reply.

CHILDREN AT RISK

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice, a question regarding children at risk.

Leave granted.

The Hon. KATE REYNOLDS: My office has become aware of a situation involving an 11 year old child who is currently a client of the Department of Family and Youth Services' child protection program and has recently entered the state's juvenile justice system. FAYS is the statutory authority with responsibility for the protection of children in South Australia, as defined in the Child Protection Act 1993. I have previously brought to the attention of honourable members the fact that approximately 20 children with an intellectual disability and high and complex needs are currently the subject of child protection concerns within the ambit of FAYS. The Sturt and Gilles Plains assessment units still do not have the resources to ensure that children with an intellectual disability can be diverted away from the juvenile justice system and into appropriate care with intervention services, either with their family or in supported and supervised accommodation.

The government's Layton report has identified that the existence of a disability may compound a child's vulnerability to abuse and neglect. Now an 11 year old child with an intellectual disability is on remand at the Magill Training Centre for the third time following the state's apparent inability to protect this child from causing further harm to herself or others. In fact, investigations by my office reveal that not one of the mandated agencies has sufficient funds to develop or purchase the specialised prevention, intervention and therapeutic services necessary to meet the most urgent needs of children known to have a disability and extreme behaviour problems. Concern has also been expressed to my office that police officers are increasingly being expected to provide a law enforcement response to what is in fact a child protection issue. My questions are:

1. Does the minister agree that it is inappropriate to repeatedly detain an 11 year old child with an intellectual disability in a juvenile justice facility? If not, why not?

2. Is the minister aware that Family and Youth Services does not have the funds to provide an appropriate and timely service for children with an intellectual disability and high and complex needs, even though this is clearly the minister's responsibility under the Child Protection Act?

3. Will the minister take action to ensure that additional funds are provided for service development and delivery or purchase by FAYS regional officers, the state's assessment units and disability agencies, including ITSC, to meet the needs of these children, as required by the Child Protection Act? If not, why not?

4. Will urgent consideration be given to the development of a service delivery policy with detailed standards and guidelines for all agencies involved in the provision of services to young people with an intellectual disability to ensure that their rights are upheld in accessing and using services?

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

AUTISM SPECTRUM DISORDER

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, a question about government funding for autism spectrum disorder?

Leave granted.

The Hon. A.L. EVANS: This week is Autism Awareness Week. Yesterday, people marched down King William Street to raise awareness of government funding for autism. The *Advertiser* reported that more than 500 people attended the march. I was involved in the march and was given an opportunity to address the gathering, at which time I express-

ed my concerns relating to the lack of government funding. Autism is a very serious issue for many families in our state. It leaves parents feeling frustrated and angry, particularly given the lack of government funding.

According to reports provided by Relationships Australia (South Australia) there is a 75 to 85 per cent divorce rate amongst families with children who have autism spectrum disorder compared to 50 per cent for the general population. The minister, in a response to a question that I asked in December 2002, indicated that funding had increased in 2002-03; however, the number of children registered in the new development program has increased by 50 per cent since 1999. My questions to the minister are:

1. What was the funding allocation per child in the year 2002-03?

2. What was the funding allocation per child in the years 1999, 2000 and 2001?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for Education and bring back a response.

CHRISTIES BEACH HIGH SCHOOL

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for the Southern Suburbs, a question about the Christies Beach High School.

Leave granted.

The Hon. T.J. STEPHENS: Some members may be aware that the Christies Beach High School is divided into two campuses. The western campus has been closed and its students transferred to the eastern campus. The infrastructure built for the school is still there but is being drastically under-utilised. Some facilities are being used, particularly in relation to education services for students at risk. The community was apparently informed that the Department of Education was going to use the buildings there. Apparently, no attempts have been made to prepare the site for any departmental offices. Several buildings at the site are simply waiting to be ruined by vandals. My questions to the minister are:

1. What is the education department's intention for that site, and what has the minister recommended for that site?

2. If the education department is not going to use that site, will the minister consider relocating his southern suburbs department to the southern suburbs?

3. Will the minister outline the government's intentions regarding the use of the oval at the campus, which is a prime opportunity for open space for the community in the Christies Beach area?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Certainly, the first few questions, at least, are for the Minister for Education so, as the responsible minister, I will pass them on to her and bring back a reply.

MINERAL EXPLORATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Mineral Resources and Development questions about mineral exploration licences.

Leave granted.

The Hon. J.F. STEFANI: In reply to a question I asked the minister in the council on 24 March 2003, I have been informed that, since the Labor Party formed government on 6 March 2002, 169 exploration licences for minerals were issued by the government up to 26 March 2003. My questions are:

1. Will the minister provide details of each location for which exploration licences were issued by the government?

2. Will the minister advise the council the length of time that each licence remains valid?

3. What was the amount of revenue collected by the government when issuing mineral exploration licences for the above mentioned period?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The honourable member has asked for some detailed information, which I will obtain from my department. Exploration licences are normally granted for a period of five years, at which time they can be renewed, although a bill is currently before the parliament that addresses parts of the question about what happens when a mineral exploration licence is renewed. Normally, the requirements under the licences are tightened at that time.

The honourable member asked for information about the location of each of those applications. Certainly, the department produces maps that show those locations. A fair bit of work would be involved to track down the details of each of those exploration licences, but I will endeavour to see what information we can provide. Normally, those applications must be advertised, because that is part of the application process, and information about who is seeking an exploration licence is publicly available under that process. However, I will obtain what information I can for the honourable member.

DROUGHT RELIEF, SOUTHERN MALLEE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the drought affecting the Southern Mallee.

Leave granted.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: You want to know where the Southern Mallee is! I will get you a map. As we know, the federal government rejected the application for exceptional circumstances assistance for the drought-affected Southern Mallee. Recently, the minister advised the council of a raft of measures that the state government is implementing to assist these farmers. My question is: as the conditions have worsened in this area since the federal government's rejection late last year, does the minister intend to appeal again to the commonwealth to recognise the plight of these farmers in the Southern Mallee?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the Hon. Bob Sneath for his interest in conditions in the rural areas of our state—an interest which perhaps exceeds that of some in the federal government. Today, on behalf of the Rann government, I resubmitted our application to the commonwealth for an exceptional circumstances declaration for the drought stricken Southern Mallee.

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: It was very appropriate indeed. The area concerned is the same as that which the federal government rejected in December last year and comprises the hundreds of Bowhill, Vincent, Wilson, McPherson, Hooper, Marmon Jabuk, Molineaux, Auld, Billiatt, Kingsford, Peebinga, Pinnaroo, Parilla Bews, Cotton and part of Price.

Like the honourable member, I was extremely disappointed that the commonwealth rejected our first application. Its reasons were that, in its opinion, insufficient farmers were affected and the impact was not significant enough to meet the exceptional circumstances funding criteria, despite the fact that the region was not only drought affected but had also experienced two years of frost leading up to the drought.

Five months have now passed since our original application and, during this period, conditions have continued to deteriorate in the Mallee, with the looming prospect of yet another seasonal failure. Nearly 300 Mallee farmers surveyed late last year stated that the average reduction in farm income was 25 per cent in the year 2000; 20 per cent in 2001; and 64 per cent in 2002. These figures clearly indicate the high regional impact caused by three years of frost and drought. The continued dry conditions in the Mallee have reduced the ability of farmers to prepare land for cropping, while high livestock prices and the lack of early season rainfall have both affected their ability to restock.

Based on rainfall figures provided by the Bureau of Meteorology, rain on the weekend was generally widespread across the state's agricultural areas. However, the high rainfall areas were those that received the higher falls. In the Murray-Mallee, falls were of the order of 10 millimetres, which will provide some optimism to farmers in this area.

Farmers in the Mallee have been eligible for interim income support under the commonwealth arrangements for the past six months because of their current prima facie status; however, that will end next month. If there is no extension of that income support, they can expect no further income until late this year when crops are due to be harvested.

The state government has provided help through reseeding and restocking grants as part of its $5 million drought assistance package and a range of other support measures for the Mallee (which I announced in this council a fortnight ago), but the farmers require ongoing welfare support until they can make some income from their crop and livestock businesses. We are seeking a declaration of EC by the commonwealth or at least ongoing recognition of the current prima facie provision, as this would ensure income support for another six months. I am hopeful that the federal government will recognise what the state government already has realised; that is, the farmers in the Mallee are doing it tough and they deserve our support.

QUEEN ELIZABETH HOSPITAL

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 research space at the Queen Elizabeth Hospital.

Leave granted.

The Hon. SANDRA KANCK: The Queen Elizabeth Hospital is the centre of health care excellence in the western suburbs. Housing a number of world-class research departments, including transplantation, surgery and asthma, as well as 19 other laboratories, the QEH has provided an invaluable service to South Australia since the 1960s—

The Hon. J.F. Stefani: And cardiology.

The Hon. SANDRA KANCK: And cardiology. With more than 200 clinicians, scientists and students, much of the valuable research is carried out at the Basil Hetzel Institute. In the lead-up to the last state election, the Queen Elizabeth Hospital Research Foundation contacted political parties expressing their concern that the Basil Hetzel Institute was to be bulldozed as part of the redevelopment, with no guarantees of any replacement. The document that was ultimately produced by the research foundation gave responses from the Labor Party, the Liberal Party and the Democrats, and the Labor Party (with Lea Stevens responding as the then shadow minister for health) gave two undertakings, as follows:

(a) Labor will continue laboratory based research at the Queen Elizabeth Hospital.

(b) Labor will make arrangements for research activities to compensate for the demolition of the Basil Hetzel building as part of the stage 1 redevelopment.

My questions are:

1. What has the government done to keep its promise to 'make arrangements for research activities to compensate for the demolition of the Basil Hetzel building'?

2. Will any space allocated in any new arrangement at least equal that of the Basil Hetzel Institute?

3. Will the minister guarantee that no directions will be given by the government to the board to reduce funding on research?

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

The Hon. J.F. STEFANI: I have a supplementary question. As the Hon. Jay Weatherill is on the board of the research foundation, can the minister ensure that he plays his role in ensuring that the promises that were made are kept?

The Hon. T.G. ROBERTS: I am not sure about the minister's status on the board—I am not my brother's keeper, or my sister's keeper for that matter, in relation to personal commitments given. It is a very difficult answer to give to a very difficult question: it is hypothetical and that is about as far as I can go in answering it.

HOSPITALS, TERRORIST ATTACK

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, questions about the preparedness of South Australian hospitals for terrorist attack.

Leave granted.

The Hon. T.G. CAMERON: Before proceeding with my preamble, I remind members that it is International Nurses Day, which is celebrated on Florence Nightingale's birthday, and I am sure that everyone would join with me in wishing our nurses the best for the day. According to a recent report released by the nation's front-line emergency medics, Australian hospitals are unprepared to handle mass casualties from a chemical, biological or nuclear terrorist attack. One third of hospitals have never tested their disaster plans and many do not have the most basic decontamination facilities or protective kit for staff and patients. Many also have been excluded from counter-terrorism training exercises.

A recent national survey showed that only 7 per cent of Australia's hospitals are fully prepared for the influx of casualties from a chemical attack. Even fewer are ready for a biological or radiological attack. It is all very well for us to say, 'Well, it will never happen here in South Australia,' but who knows for sure? The survey of 82 emergency departments found that most hospitals would struggle to cope with

even very small numbers of casualties. One of the co-authors, staff specialist at the Royal Adelaide Hospital intensive care unit, Mr Nick Edwards, was quoted in the *Australian* as saying:

> While millions of dollars are spent on intelligence and policing, little thought seems to be going into making hospitals ready to handle the casualties that would inevitably come with an attack. There is a real risk, if hospitals aren't prepared, that more of those injured will die. Hospitals have been repeatedly excluded from exercises involving the emergency services and, given their vital role in the response to such an incident, this needs to be urgently addressed. In the wake of September 11, a considerable number of anthrax hoaxes provided an invaluable opportunity to test our response, and highlighted a number of significant deficiencies in pre-existing plans. The fact that we struggled with the decontamination of relatively small numbers of people raises real concerns as to how we would cope with a real event.

Apparently two-thirds of hospitals did not practise their disaster plans over a 12-month period, while a third have never practised their emergency responses. Further, up to 35 per cent of hospitals lack decontamination facilities and more than a third are short of equipment, such as masks and filters, goggles, gloves, boots and chemical-resistant suits, to protect staff. My questions are:

1. How prepared are South Australia's hospitals to handle large numbers of casualties that could occur as a result of a terrorist attack and do they each have the required equipment to assist patients and protect staff?

2. Does each of South Australia's major hospitals have a disaster plan in place and how often are they required to practise it?

3. Given their vital role in the response to terrorist incidents, are South Australian hospitals included in terrorist exercises involving the emergency services? If not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The question was directed to me, I assume because the Minister for Emergency Services is responsible for disaster planning, but I suspect that many of those questions are really for the Minister for Health. Like the honourable member who asked the question, I recognise the essential role that nurses play in our health system. I will seek to get a response to those questions and bring back a reply.

PARLIAMENT HOUSE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before directing a question to you, Mr President, on the subject of functions at Parliament House.

Leave granted.

The Hon. DIANA LAIDLAW: Prior to my retirement on Friday, 6 June, I am very keen to host a party to thank many of the people who have assisted me in my work over some 20 years as a member of this place and, after exercising some considerable restraint, I drew up a list of 237 names. I then sought to reserve the Balcony Room on the first floor of Parliament House, only to be told that ministers, the Speaker and the President are entitled to book any rooms at Parliament House for private functions, unless permission is sought and gained from a presiding officer. While I do not know why this rule exists, I duly sought and gained your permission on 11 April, for which I thank you, Mr President.

Then when I sought to order food and wine, I was told a rule applied restricting the number of guests in the Balcony Room to 100. I was also told that I could not move my party to the Members' Dining Room, which could accommodate my original list of 237, because on a Thursday night of a sitting week parliament may sit in the evening and the dining room may be required by members. To my knowledge, never in the 20 years that I have been a member of this place has such a scenario arisen, but I kept my cool and inquired about the possibility of booking for a lesser number in the courtyard with access to the Kingston Room in the case of a cool evening. This time I was told that this option was also impossible because no-one other than MPs is allowed to eat in the Kingston Room.

Exasperated, and only because I wish to mark my retirement from parliament at Parliament House and no other venue, I have now decided to host my party at my original preference, the Balcony Room, but to cut 130 from my original invitation list, including you, Mr President, and almost all other MPs. In concluding my explanation, I recognise that I could have raised this matter with you privately, but I am so angry at the archaic rules and regulations that apply to members, particularly compared with ministers, hosting functions at Parliament House that I have decided to raise questions in this place and on the public record. My questions are:

1. Will you please explain now or at some later date why so many restrictive rules and regulations apply to members hosting functions at Parliament House which limit parliament making money from catering and which, in turn, could be used to reduce the taxpayer subsidy required to operate this place each year?

2. Will you raise this matter with the JPSC and seek a more liberal application of the rules that currently apply to members hosting functions at Parliament House and which govern access to various function areas?

3. Will you investigate the removal of the one remaining billiard table in the Balcony Room, which is never used, possibly to the adjoining former Legislative Council billiard room or out of the parliament altogether so that the Balcony Room can be used to its full potential in future for meetings and function purposes?

The PRESIDENT: If I can get over the shock of no invitation to the honourable member's retirement I will endeavour to answer the questions. The practices and procedures with respect to the facilities at Parliament House have been built up over many years and they are in the province of the JPSC. The JPSC is a body that incorporates all the parties in the parliament and it views in a very balanced way the operations of Parliament House. With respect to some of the assumptions the honourable member makes about making money in Parliament House through catering, it does not always occur, and in fact the rules were changed recently to ensure we can actually get back some money.

The Hon. Diana Laidlaw: What, from ministers?

The PRESIDENT: From ministers. Well, the rules in respect of the JPSC have evolved over many years and for particular reasons. One of the things that members have to remember is that this is not a catering or function service with respect to holding functions. We are in the heart of the entertainment and hospitality area. I for one am keen to provide adequate services for members of parliament to do their duty, but I do point out to members that it is not a hospitality industry. However, I will take the honourable member's questions on notice and give her a more detailed reply in writing.

The Hon. J.F. STEFANI: Mr President, in view of the request made by the honourable member, could you kindly have the JPSC investigate what other parliaments in Australia

function under those rules and bring back some information for the general use of members?

The PRESIDENT: I thank the honourable member for his supplementary question. I think it is a very worthwhile exercise and I will undertake to do that on behalf of the council.

The Hon. T.G. CAMERON: Is it in breach of any Parliament House rule for visitors to consume food in the Kingston Room, because, if so, we have all been breaching the rule for many a long year?

Members interjecting:

The Hon. T.G. CAMERON: Is it a breach of any government regulation for visitors to consume food in the Kingston Room? I have seen visitors over there for years dining in the Kingston Room.

The PRESIDENT: I think the question you are directing at me, Mr Cameron, is whether it is a JPSC rule or a Parliament House rule. There is no government regulation in respect—

The Hon. T.G. Cameron: I said Parliament House rule.

The PRESIDENT: The room can be booked by members to provide functions and therefore they will have guests. So, clearly, the direct answer to the honourable member's question is that it is not against anybody's rules for the consumption of food, but there are particular rules about who can book the rooms and provide functions. We generally do it for leaders of parties, and I understand that from time to time you, Mr Cameron, have had a function there, which was quite legitimate. The appropriate regulations of the parliament were undertaken and therefore that will occur in future. I will have all these matters investigated and provide a written answer to the questions, in particular the one that the Hon. Mr Stefani asked.

SOUTH-EAST WATER LICENCES

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment, a question about South-East water licences.

Leave granted.

The Hon. A.J. REDFORD: In January this year the Schutz family appealed to the Environment, Resources and Development Court against a decision not to grant them a water licence by the minister. During the appeal Mr Andrew Schutz gave evidence to the court, which evidence was not challenged at all by the minister's legal representative. Mr Schutz said that in March 2000 he commenced investigating the purchase of a dairy farm in the South-East. He looked at a farm at Wandillo. He wanted a farm to enable him to irrigate 80 hectares, and Mr Gunn had a licence to irrigate only 35 hectares. Another four farms he looked at had the required 80 hectare licence but were not as well located.

As a consequence he went to the Department of Water Resources in Mount Gambier and spoke with a Mr Mike Smith for an hour. Mr Smith said that if he applied within a week he would be granted an additional 35 hectares. Mr Smith suggested he apply then and there and Mr Schutz did exactly that. Mr Smith told Mr Schutz that the application would be 'processed as a formality'. Indeed, Mr Smith helped him fill out the form. He paid a $214 fee, and that was the cheapest part of this whole exercise. Mr Smith did not mention the water freeze, the pro rata allocation system, the prospect of new regulations or the prospect of new water allocation plans to be adopted in the subsequent months.

As a consequence Mr Schutz purchased Mr Gunn's land, at many hundreds of thousands of dollars. During a meeting subsequent to the purchase a Mr Kevin Mott of the department discovered the application had not been processed—it was left on a shelf in the office. One month later Mr Schutz was advised that his application had been rejected. It is clear that Mr Schutz would not have bought the property for many hundreds of thousands of dollars but for the representations made by Mr Smith.

The minister in his submission to the court earlier this year did not deny the circumstances outlined by Mr Schutz, and in those submissions said through his counsel:

> Whatever information the appellant was given when he visited the department officers in March 2000, it is submitted, is not relevant.

The court rejected the appeal, and in so doing said:

> We uphold the minister's decision with regret for the situation the Schutz's find themselves in. We can only add that on the evidence of Mr Schutz the attitudes and actions of the departmental officer concerned, Mr Mike Smith, as we were informed were absolutely outrageous and appalling.

In light of this, my questions are:

1. In what other situations is it submitted that it is not relevant to rely upon advice or information given to members of the public by the minister's department?

2. Was Mr Schutz's application rejected because 'it was left on the shelf' or because there was no water left to be allocated?

3. To what extent can the business community rely on advice given by the minister's departmental officers before making investment decisions?

4. Will the minister compensate the Schutz family for any loss they have suffered as a consequence of his department's ineptitude?

5. Will the minister immediately cause an investigation into the department's procedures to ensure this does not happen again?

6. What is the minister's understanding of the loss that the Schutz family has suffered as a consequence of failing to obtain the licence sought in their application?

I note that some of these decisions were made prior to the minister having responsibility.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will endeavour to take all those questions on notice, take them to the Minister for Environment in another place and bring back a reply.

PUBLIC HOSPITAL FUNDING

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement made by the Minister for Health, Hon. Lea Stevens, in another place.

REPLIES TO QUESTIONS

DROUGHT RELIEF

In reply to **Hon. CAROLINE SCHAEFER** (2 April 2003).

The Hon. P. HOLLOWAY: The Minister for Environment and Conservation has provided the following information:

The Australian Government Envirofund Drought Recovery round is managed solely by the commonwealth government and was formed in December 2002 in response to the severe drought conditions facing many parts of rural Australia. Priority has been given to applications from areas declared as Exceptional Circumstances (EC) areas, or those under consideration for EC.

The South Australian government is totally supportive of the process but does not have a formal role in administrating, co-ordinating or promoting this program. However, regional facilitators and coordinators in South Australia, many employed by the state government, have ensured that the community is aware of the Envirofund Drought Recovery Fund and have assisted in the preparation of applications to the commonwealth government.

South Australia submitted 5 projects for the first priority processing round of the Envirofund Drought Recovery Program. Two of those projects were successful:

- Venus Bay Revegetation for Biodiversity and Productive Sustainability—$9 640; and
- Remedial Action to Impede Further Watercourse Erosion from Pastoral Grazing and Storm Water Damage—$20, 288.

The other three applications will be considered again in the second priority processing round.

GENETICALLY MODIFIED FOOD

In reply to **Hon. IAN GILFILLAN** (2 April 2003).

The Hon. P. HOLLOWAY: The honourable member inquired about the timing of the final determination by the Gene Technology Regulator in relation to the granting of a commercial licence, or not, to Bayer CropScience for InVigor Canola.

The Risk Assessment and Risk Management Plan recently released by the Gene Technology Regulator has a mandated eight week period of public consultation. I am advised that this period concludes on 26 May 2003.

Following that period of consultation the Regulator is required to consider all submissions and to then make a final decision in relation to the granting of the licence and any conditions that may be attached to it.

At this stage no one is able to determine in advance the exact nature and volume of submissions that may be made to the Regulator as a result of the consultation process. While the Regulator is preparing to manage that process expediently, it may still take a few weeks. It is unlikely that this can be completed much before the end of June, although, as I have stated, no firm prediction of timing can be made after the close of the consultation process, so the honourable member's request for a firm indication cannot be met.

Given that the varieties being submitted by Bayer CropScience for licensing in this instance are medium to long growing season varieties, even a seeding date of late June or beyond is past the optimum time of seeding, and there will be reduced interest by farmers due to the high risk of low yield and returns.

WINE GRAPE INDUSTRY

In reply to **Hon. R.K. SNEATH** (1 April 2003).

The Hon. P. HOLLOWAY: On 1 April, I reported to this house on the reduced wine grape yields expected in the state this season. The Hon. R.K. Sneath then asked a supplementary question about sales of wine grapes in the Riverland, and whether the downturn in tonnage has resulted in Riverland growers who have not had contracts being able to sell their grapes this year.

As reported earlier, Riverland wine grape yields for the 2003 vintage have been reduced significantly by hot dry growing conditions through spring and summer, and rain in late February. Latest data indicates that production for the Riverland will be down by about 20 to 30 per cent to approximately 330 000 to 350 000 t for 2003. This has changed what was expected to be a 20 per cent over supply situation to a reduced supply situation. Consequently, wineries have been openly buying un-contracted grapes.

The Riverland Wine Grape Growers Association established a register of growers with uncontracted wine grapes available for sale. Some 150 growers registered approximately 10 000 t of uncontracted grapes for sale.

The current level of unsold grapes is now at approximately 5 000 t, so it has been possible for growers to sell a significant proportion of the uncontracted production this season.

DOG FENCE BOARD

In reply to **Hon. CAROLINE SCHAEFER** (27 March 2003).

The Hon. P. HOLLOWAY: The Minister for Environment and Conservation has provided the following information:

1. The Dog Fence protects livestock south of the fence and it also protects the Dingo as a legitimate wild life species outside of the fence.

The cost of maintaining the South Australian fence compares very favourably with the other two states, which maintain the rest of the Dog Fence in Australia:

- NSW has an annual budget of $1.2 million for 584km of fence
- QLD has an annual budget if $1.4 million for 2 650km of fence.

2. The Dog Fence Board members are each paid a total of $1070 per year for:

- Four Board meetings per year
- Seven days inspecting the fence as a board per year

The South Australian Dog Fence is 2178km long and the Dog Fence Board has an annual budget of $765, 000. Half of this amount is raised from the livestock industry via a levy which the government subsidises on a dollar for dollar basis.

In addition, each board member also has a section of fence, which they inspect by themselves.

3. The government is pursuing natural resource management (NRM) reform in South Australia. In the first instance, the government is developing natural resource management legislation focussing on water, soil and pest control arrangements. However, opportunities for further integration will be examined in the next stage of the NRM reform project.

4. The Premier highlighted the need to reduce the hundreds of boards currently operating in South Australia. Indeed a reduction in government boards is a key recommendation to flow from the recent Economic Summit chaired by Mr Robert de Crespigny and endorsed by the business sector.

LOCAL GOVERNMENT DISASTER FUND

In reply to **Hon. R.I. LUCAS** (26 March 2003).

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

When the state government established the Local Government Disaster Fund in 1980 it defined the purposes to which the Fund could be directed. The Fund can be used for purposes related to the effects on local governing authorities of natural disasters or other adverse events or circumstances that are non-insurable, where the expenses incurred exceed the financial capacity of the affected council.

Under the Fund guidelines, Councils are expected to contribute towards their damage expenses to the extent of ten percent of their works budget, before the Local Government Disaster Fund Management Committee would recommend funding assistance. The Management Committee makes recommendations to the Treasurer.

The Executive Officer of the Management Committee has had discussions with three Councils who have experienced problems in relation to sand drift. Two Councils, the District Council of Karoonda East Murray and the District Council of Loxton Waikerie, have made applications for consideration by the Management Committee.

The Management Committee has decided, in consultation with Councils, to defer making a decision regarding assistance until the full cost of the sand drift removal and rehabilitation of the road network is known. When the total cost is known, the Councils will submit the details to the Committee who will reconsider their claims.

In the meantime the state government has re-allocated $280 000 to the Murray Mallee for additional relief under the $5 million State Drought Assistance Package. The money will be used to fund a series of specific community support measures in the region including:

- $120 000 to District Councils in the Murray Mallee towards the removal of sand drift from roads
- $80 000 to the Murray Mallee Strategic Task Force to assist in the development of community self reliance. This funding will

allow the continued employment of a Regional Facilitator until June 2004.

- $60 000 to assist landholders in the Murray Mallee to rehabilitate land degraded by wind erosion.
- $20 000 to support youth and young farmer development strategies.

These projects were originally earmarked for the state's contribution to the commonwealth's Exceptional Circumstances (EC) assistance program. However The federal government chose not to support EC relief for the Southern Mallee despite two years of frost and then drought, informing us that too few farmers were affected and the impact was not great enough to meet funding requirements, again demonstrating that the process of securing commonwealth drought relief has become cumbersome, inconsistent and in need of a complete overhaul.

The Local Government Disaster Fund Management Committee did not consider legal advice to be necessary in relation to this matter.

PARTNERSHIPS 21

In reply to **Hon. T.G. CAMERON** (4 December 2002).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

1. The state government, represented in the Education portfolio by the Minister for Education and Children's Services, is responsible for determining policy affecting public school and pre-school students, whilst the Department of Education and Children's Services (DECS) is responsible for implementing the government's policy.

In the implementation of that policy, DECS is required, under relevant Enterprise Bargaining arrangements made in the Industrial Relations Commission to consult with the Australian Education Union (AEU) and/or the Public Service Association (CPSU-PSA).

Following recent action taken by the AEU in the Australian Industrial Relations Commission, the Chief Executive of the Department of Education and Children's Services provided the following written assurance to the AEU and PSA on 6 December 2002:

'. . . I hereby commit the Department of Education and Children's Services to a separate process of consultation with your organisation regarding your responses to the Review. I propose that this consultation involve Senior officers from DECS with your representatives.'

This followed the AIRC judgement on 27 November 2002 in which Deputy President Hampton stated that "the AEU and CPSU do not have a right of veto over the nature of the school management system" adopted in SA public schools but that these unions "represent a significant portion of the staff who are affected by such decisions" and so must be consulted appropriately.

2. At an early stage of its work, the Committee undertaking the Partnership 21 (P21) Review sought public submissions on the topic. This also involved extensive face-to-face consultation with school staff, governing bodies, students parent groups and local communities. Further, when the government received the report it was posted on the Department's Website in November 2002 and response was invited to the report's findings and recommendations. There will be further opportunity to consider proposals arising from the Review before changes are made for the 2004 school year.

3. Local management in SA has already moved on from the former government's P21 scheme. The obvious discriminations that existed between 'P21' and 'non-P21' schools have been removed with all schools now having access to certain funding, programs and benefits that were previously denied the 'non-P21' schools. All feedback to me has been that schools and school communities appreciate those fairer arrangements. The Department will continue to involve all relevant parties when making determinations regarding local school management.

ELECTRICITY CHARGES

In reply to **Hon. J.F. STEFANI** (21 November 2002).

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

1. The new increases incorporate two Grid price increases, one of 1 July 2002 and another of 1 January 2003. The 1 July 2002 Grid increase was 2.9 per cent and the 1 January 2003 Grid increase involves an average increase of 23.7 per cent for Grid customers.

The Coober Pedy price increases are the same percentage increases as those above so that a Coober Pedy customer will see the same percentage increase as a similar Grid connected customer.

2. The Minister for Energy approved the increases in the Grid Prices of 1 July 2002 and 1 January 2003 to flow through to Coober Pedy. That maintains the link that small to medium domestic customers will pay Grid prices plus a remote areas allowance of 10 per cent for Grid type reticulated electricity.

Cooper Pedy domestic customers have experienced the same percentage increases as their Grid based counterparts, on average 25 per cent.

3. In remote areas of South Australia, the production and distribution of electricity, is undertaken by private generators, in the case of Coober Pedy a company owned by the Coober Pedy District Council.

The cost of producing and reticulating electricity in remote areas is very high due to the small scale of operations, remoteness and the large amounts of high cost diesel fuel consumed. The revenue from end users is less than half the cost of the production of this electricity.

The government provides the difference as a direct and significant subsidy to allow these end users to access grid type electricity at near grid prices. The state government's subsidy of Coober Pedy electricity this year exceeds $3 million.

4. To meet the government's election commitments regarding electricity pricing, this government established the Essential Services Commission (the Commission) as a powerful regulator for the electricity, gas, ports and water industries so as to put the public interest back into the regulation of essential services. The primary objective of the Commission is to protect the long-term interest of South Australian consumers with respect to price, quality and reliability of essential services.

Through amendments to the Electricity Act 1996, the government also provided additional consumer protections for small customers from 1 January 2003, including the enactment of a price justification regime and provision for penalties of up to $1 million for companies that breach their licence conditions.

In accordance with these legislative amendments, the Minister for Energy directed the Commission to undertake a review of the proposed price increase, as published by AGL as the incumbent retailer, and to determine whether the prices can be justified as reasonable, having regard to the contributing factors and the overall objectives of the Commission.

The Commission's Price Inquiry final report, as released on 31 October 2002, indicates that South Australia's higher prices are primarily driven by higher network charges, which were locked in by the pricing arrangements established to maximise the privatisation proceeds by the former Liberal government.

In recognition of the need to address this cost issue, the Labor Party has always been a supporter of the proposed SNI interconnector project, as it will provide access to cheap power from NSW which could lead to a more competitive power supply market and dampen potential price increases in South Australia. For this reason, the South Australian government joined in legal action with New South Wales in the National Electricity Tribunal to argue for SNI to be built.

One way the government is addressing price issues, since privatisation, is to ensure the supply of electricity to South Australia is great enough to avoid huge price hikes at times of great demand. To that end this government, in addition to its support for the SNI Project, has

- Worked with energy companies to ensure the SEAGas/TXU partnership to bring a new gas pipeline from Victoria. This will increase competition in both the gas and electricity markets. This pipeline should be on line by the end of 2003;
- Provided the final approvals for the Starfish Hill Wind Farm, construction of which has commenced.

This government is also committed to improving the general workings of the National Electricity Market and as such is involved in the many forums which have been established to investigate and seek to rectify the problems currently experienced in the market.

This included negotiating an agreement with other states to support harsher penalties for generators spiking prices (re-bidding).

With the introduction of full retail competition in the electricity market on 1 January 2003, retailers are seeking to attract customers presumably through lower prices, additional services or a combination of both. Given the findings of the Commission regarding the underlying cost of retailing electricity in South Australia, it may not be possible for any substantial variations in price to be seen in the short term, hence the importance of pursuing alternative avenues such as those I have described.

PRISONS, DRUG USE

In reply to **Hon. A.L. EVANS** (1 April).

The Hon. T.G. ROBERTS: I advise the following:

1. Has the Minister now been made aware of the device known as the itemiser by the Department for Correctional Services?

The department has made me aware of the device known as the 'Itemiser'.

The itemiser was initially procured in 1995 for approximately $82 000, and an updated machine was purchased in 1998 for $100 000. The itemiser was used through to the late 1990's to detect the presence of, or recent contact with, drugs. During the latter period of its service, questions were raised regarding its reliability and about the appropriateness of existing legislation to support its use.

2. What is the nature of the loophole in the existing legislation?

Existing legislation is not clear on the legitimacy of using such a device or search procedures using such a device, which if challenged could bring into question the findings and prosecutions using the device.

3. Can the Minister advise when the government is planning to introduce amendments to allow the use of the device in South Australian prisons?

It is intended that the Correctional Services (Miscellaneous) Amendment Bill 2003 will be introduced into parliament later this year.

In reply to **Hon. J.F. STEFANI**.

4. Can the Minster advise the council of the nature of the technicality in the legislation that prohibits the use of the itemiser?

The Correctional Services Act 1982, as it now stands, only provides for visitor searches to be carried out on suspicion. The proposed new amendments provide less intrusive search practices and give the department authority to search anyone entering a prison facility.

ASBESTOS

In reply to **Hon. A.L. EVANS** (3 April 2002).

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

1. The Department of Human Services (DHS) would participate in a national forum to discuss a national approach to asbestos disease research if such a forum were organised.

2. DHS does not allot any funding specifically to asbestos disease research. The majority of government medical research funding in South Australia comes from the National Health and Medical Research Council, rather than from DHS.

PRISONS, CAPACITY

In reply to **Hon. J.F. STEFANI** (25 March).

The Hon. T.G. ROBERTS: I advise the following:

As at 28 March 2003, the Department for Correctional Services had the capacity to accommodate 1 649 prisoners.

On that date, there were 1 445 prisoners in the prison system.

On 28 March 2003, the occupancy and capacity of each of the state's prisons was as follows:

Prison	Occupancy	Capacity
Adelaide Pre-release Centre	52	60
Adelaide Remand Centre	225	247
Adelaide Women's Prison	87	99
Cadell Training Centre	127	140
Mobilong Prison	212	240
Mount Gambier Prison	109	110
Port Augusta Prison	215	280
Port Lincoln Prison	62	68
Yatala Labour Prison	356	405
Totals	1445	1649

PRISONERS, WORK

In reply to **Hon. R.D. LAWSON** (24 March).

The Hon. T.G. ROBERTS: I advise the following:

The South Australian Department for Correctional Services reported to the Council of Australian Government (COAG), that in the 2001-2002 financial year, 218 prisoners were involved in Vocational Education and Training certificate level programs.

The department has undertaken considerable work to improve the skills of prison industry and prison service staff to provide accredited training as an integral part of manufacturing and services activities undertaken by prisoners. This is still a new approach to the delivery of training in a prison environment and many staff are still developing their skills in the delivery and assessment of vocational training. Consequently, much of the training undertaken in these work areas is as yet unaccredited.

The department has also undertaken discussions and negotiations with the Office of Vocational Training (OVET) to introduce formal contracts of training (traineeship for prisoners). There is significant support for this approach to the delivery of work based vocational training and the department is keen to see an increase in the number of people involved.

Most recently, at the community corrections level, there has been a number of community services' order clients who have been involved in formal accredited training in painting and decorating as an integral part of their work in the painting of Department of Education and Children's Services and other facilities. I am advised that in the past 6 months 21 clients have completed accredited training in this area and, encouragingly, 12 of these have gained employment. An additional 14 are currently undertaking training to receive a qualification in painting and decorating. Many of these people were previously categorised by Centrelink as long term unemployed and in receipt of significant levels of support.

ASBESTOS

In reply to **Hon. NICK XENOPHON** (18 February).

The Hon. T.G. ROBERTS: The Minister for Administrative Services has advised:

He has received part 1 of the independent review on asbestos and associated practices of management and removal.

Part 1 of the review was to consider matters arising from the Ascot Park Primary School incident and the second part of the review was to investigate the broader aspects of asbestos management.

The minister has forwarded the part 1 report to the Minister for Education and Children's Services and copies have been forwarded to the department. The report will be available publicly.

The minister is pleased to report that the key observations of the report found that the removal of the roof cladding at Ascot Park Primary School was taken in general accordance with the South Australian code of practice for the safe removal of asbestos and with the approval issued by the Department for Administrative Services, Workplace Services. In the professional opinion of investigators there were minimal health risks to staff and students at Ascot Park Primary School. All the environmental air monitoring tests that were taken during both the main asbestos removal works and the clean up were below the detection limit.

In relation to the incident described in the media on 14 January 2003, the minister is advised that there were a number of bins located around the site, however asbestos was not disposed of in open bins and in fact was sealed in plastic bags. None of those bags were disturbed.

The investigator interviewed the Ascot Park Primary School principal and written submissions were received from the Ascot Park Primary School representatives.

The minister accepts that whilst the school was aware of the works to be carried out that this fact may not have been communicated as well as it could to the broader school community.

HEALTH REVIEW

In reply to **Hon. R.I. LUCAS** (18 February).

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

1. The Minister for Health is not responsible for donations to the Australian Labor Party and holds no information on this matter.

2. Professor Carol Gaston is being paid at a rate equivalent to executive level D (maximum $900 per day) for her role on the review plus reimbursement for reasonable expenses incurred in connection with the review. Total payment 27 May 2002 to 18 February 2003 is $113 701.47.

3. Professor Carol Gaston was recruited to the generational health review team in May 2002, appointed by DHS contract as deputy chair and executive officer. The appointment was determined in consultation with senior officers of the minister's office, the chief executive of DHS and Mr John Menadue OA, chair generational health review. The contract for this appointment commenced 27 May 2002.

PRISONS, PORT AUGUSTA

In reply to **Hon. R.D. LAWSON** (18 February).

The Hon. T.G. ROBERTS: I advise the following:

1. Has the minister received a report on this incident?

The Department for Correctional Services provided me with the initial report outlining the circumstances of the incident within 24 hours of it occurring. The police were notified immediately. The investigation by SAPOL into the incident is ongoing.

2. What charges have been laid, or disciplinary action taken, against the prisoners responsible for this reprehensible attack on prison officers?

One prisoner who transferred to Yatala Labour Prison was discharged on 24 January 2003 as he had served his sentence. He returned interstate to reside on release. Police have been advised of this. The department had no authority to retain this individual in prison as he had served his existing sentence and was not subject to any further remand warrant.

Charge sheets were forwarded to Yatala Labour Prison for the remaining six prisoners. Charges were adjourned sine die dependent on the outcome of the police investigation.

Prisoners involved in the incident but who remained at Port Augusta Prison were charged pursuant to regulations 15(2)(a) and 15(4)(a) of the Correctional Services Act, 1982. The status of those charges is:

- Two prisoners have been charged with assault and their cases adjourned sine die pending the outcome of the police investigation;
- Charges against one prisoner were withdrawn as it was proved he did not participate in the incident;
- One prisoner was fined a total of $25;

14 days loss of yard privileges was imposed on one prisoner;

- Charges were withdrawn against another prisoner because evidence revealed he was not in the gym at the time of the incident; and,
- The charges against one prisoner have been adjourned until 7 May 2003 for trial before the Visiting Tribunal at Port Augusta Prison.

Charges have not been laid by police against any individual at this time.

The sentence plans of those prisoners transferred to Yatala Labour Prison and the two remaining at Port Augusta Prison whose charges have been adjourned sine die will be reviewed by the Prisoner Assessment Committee once the outcome of the police investigation and any charges are known.

3. What action will be taken to reduce the likelihood of similar events in the future?

Correctional staff are to be commended for their continued efforts in managing often volatile prisoners and situations under extreme conditions.

Staff will continue to monitor activities of prisoners and to ensure as far as possible, prisoners adhere to prison rules or face disciplinary action. Realistically, many individuals in prison have anti-social behavioural problems and are hostile towards correctional staff. The Department is acutely aware of the duty of care it has towards both staff and prisoners. To this end, successive governments have ensured that security systems within prisons are continually upgraded. Camera surveillance is fully utilised and staff in high-risk areas carry individual duress alarms and if activated fellow officers respond immediately.

In the event of an incident, the department provides support to all staff involved by way of the critical incident de-briefing team and on-going counselling.

PORT LINCOLN HEALTH SERVICE

In reply to **Hon. SANDRA KANCK** (17 February).

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

1. Ms Roxanne Ramsey, executive director, Social Justice and Country (SJ&C), Department of Human Services (DHS) and Ms Lyn Poole, director, Country Health and Operations, SJ&C, DHS were in Port Lincoln on 3 December 2002 to meet with the chair and board of the Port Lincoln Health Service (PLHS).

2. Ms Ramsey and Ms Poole attended, and participated in, the meeting of the PLHS board (the board). Prior to the meeting they met with the chair of the board.

The Board meeting was convened by the chair following correspondence from the acting regional general manager to Mr Ken Goodall, CEO, PLHS that stated that DHS, through Ms Ramsey, was not prepared to support the implementation of cuts to services in the PLHS.

DHS appropriately intervened to provide advice to the board. Had they not intervened Port Lincoln would have suffered health service cuts that were unwarranted.

3. Ms Ramsey did inform the board that DHS had lost confidence in the ability of the CEO to manage the PLHS. She reached this conclusion over the period of a year, following a series of events that were discussed with the board and further reiterated in a letter from her to the board. It is appropriate that DHS raises performance issues with the board. The Minister was advised of the board's decision on 6 December 2002.

4. The minister was aware that Ms Ramsey was attending the board to discuss the budget situation, proposed service cuts and her more general concerns. The minister's office was already receiving correspondence from the local community about the reduction of services.

5. The PLHS has been the subject of the following key reviews since 1997:

- July 2000 Pt Lincoln Health Service: Leadership Improvement Project;
- January 2002 Post Implementation Review, Pt Lincoln Health Service;
- December 2002 Pt Lincoln Health Service Financial Review.

Membership of the board has changed since 1997, with Board members resigning for a range of reasons including end of tenure, personal health issues and moving intrastate. These changes in membership have occurred at varying times, with no complete turnover of the board occurring as a singular event. Prior to Mr Goodall taking up the position of CEO, PLHS, the previous CEO held the position for 16 years. There have been two chairs of the PLHS Board since December 1997.

The Minister for Health is always concerned when there is a budget over-run in a health service that may affect the delivery of services. It is not appropriate to compare the situation at PLHS with Mt Gambier—they are very different, with the Mt Gambier situation being far more complex. The Minister for Health is confident that the PLHS situation, as with Mt Gambier, is being addressed in a strategic and informed manner, and that it does not warrant her intervention.

HAMPSTEAD REHABILITATION CENTRE

In reply to **Hon. T.G. CAMERON** (3 December 2002).

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

1. The Royal Adelaide Hospital, which has responsibility for the Hampstead Rehabilitation Centre, advises that at 15 April 2003 there are two patients who are maintaining their inpatient status because of delays with housing and modification difficulties.

Due to severity of their spinal injury, some patients are completely dependent on carers for all personal and daily living activities and require complex lifting equipment and extensive modification to their living space.

There are problems with purchasing an appropriate home for one client. This client could have been discharged earlier had there been interim accommodation appropriate for both physical and behavioural needs. The other client is waiting for accommodation with wheelchair access and home care support in a country location.

Whilst serviced apartments and motels are suitable for some compensable patients to facilitate their discharge from the Spinal Injury Unit, these are not suitable for all patients for a variety of reasons. These include not just the degree of the patient's disability, but also psychological factors.

The provision of more transitional accommodation by Housing Associations, modified for wheelchair use, would help to facilitate the timely discharge of patients from the Spinal Injury Unit. The Paraplegic and Quadriplegic Association and Wheelchair Homes have both assisted with the provision of such accommodation.

2. Patients of the Spinal Injury Unit who will have permanent, significant physical disability and receive no compensation generally become clients of Adults with Physical and Neurological Disability (APN) Options Co-ordination, the government's lead agency for community care of these people.

APN has a protocol with the Spinal Injury Unit, whereby discharge information is projected up to six months in advance. This enables budgetary planning to avoid delays in the provision of support at home when patients are discharged.

To support this protocol, the Independent Living Centre, which administers the Independent Living Equipment Program (ILEP), holds aside an agreed amount each year to provide home modifications required by these people. The home modifications are designed and prescribed by Spinal Injury Unit occupational therapists. Under ILEP policies, each modification is subject to a maximum cost of $4 500. From time to time, this is inadequate, and delays occur while Options Co-ordinators canvass charities and community service organisations to fund the gap between building costs and the maximum grant. Between 13 February 2003 and 15 April 2003 there were two new service requests, one within the maximum of the scheme and the second at a higher cost due to the remote location, totalling $13500.

Occasionally a person seeking to exit Hampstead Centre is a tenant of a Community Housing Organisation (CHO), operating under the South Australian Co-operative and Community Housing Act 1991.

SACHA has a 'Transitional Houses Project' to accommodate persons exiting the Spinal Unit who require short to medium term housing while their permanent housing needs are being met.

SACHA, in conjunction with the Wheelchair Accessible Community Housing Association and the Paraplegic Quadriplegic Association, has constructed at Northfield 3 x 2 bedroom units and a 3 bedroom house which can convert to a 2 bedroom and 1 bedroom flat for family or staff. The units were specifically designed to ensure accessibility for wheelchair dependent persons.

For tenants of other CHOs, SACHA is investigating the possibilities of providing disability modifications to properties occupied by existing tenants, who have become disabled during the tenancy as part of the Disability Action Plan. Guidelines are expected to be finalised within 2003.

In addition, SAHT, each year, are ensuring more than 80 per cent of new homes built are adaptable (Class C) people-friendly homes providing access for wheelchairs.

The SAHT also modifies a substantial number of its existing homes each year to provide disabled access and to enable tenants to age in place.

3. It is assumed that this question relates to the outsourcing of nursing care from the Hampstead Rehabilitation Centre Spinal Injury Unit to patients to facilitate their discharge or once they have been discharged.

The Royal Adelaide Hospital, which has responsibility for the Hampstead Rehabilitation Centre, has advised that no nursing or other staff from the Centre undertake home visits to patients of the Spinal Injury Unit after they have been discharged. No funding is available for such outreach services.

The Hampstead Rehabilitation Centre also does not fund any external staff or organisations to provide continuing home-based care and support to former patients of the Spinal Injury Unit or other units of the Centre.

However, occupational therapists attached to the Spinal Injury Unit undertake home visits prior to the discharge of a patient to assess their requirements for equipment and home modifications so that they can be safely managed at home. The occupational therapists liaise with other organisations, such as Options Co-ordination, Domiciliary Care Services and the SA Housing Trust, which have various responsibilities for the funding and provision of disability support, equipment and home modifications.

MURRAY-MALLEE STRATEGIC TASK FORCE

In reply to **Hon. D.W. RIDGWAY** (20 November 2002).

The Hon. T.G. ROBERTS: The Minister for Trade and Regional Development has provided the following information:

It is understood that the Hon. Carmel Zollo MLC, parliamentary secretary to the Minister for Agriculture, Food and Fisheries took up the position of the chair of the Murray Mallee Strategic Task Force late last year.

The government remains committed to the purpose of the task force, which is to increase the social, economic and environmental well being of the Murray Mallee.

WORKERS REHABILITATION AND COMPENSATION ACT

In reply to **Hon. R.D. LAWSON** (16 October 2002).

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

The government has put a proposal to stakeholders which provides for consistency with the approach adopted by Queensland, NSW and Victoria. The government will determine its final position following the receipt of stakeholder responses to the proposal.

No truly national solution has been achieved as yet, as only Queensland, NSW and Victoria have committed to a single solution. It is envisaged that if stakeholder support is forthcoming, South Australia will adopt complementary provisions. This would provide a consistent approach in four of the five mainland states, and build momentum for the broader adoption of the proposal.

RIVER MURRAY BILL

Adjourned debate on second reading.

(Continued from 28 April. Page 2134.)

The Hon. CAROLINE SCHAEFER: Although the Liberal Party has supported this legislation in another place and is obviously very much in favour of the rehabilitation of the entire Murray River scheme, we retain and I personally retain a number of concerns with regard to this bill. The importance of the Murray-Darling Basin cannot be overestimated for either the ecology or the economy of Australia. It is home to one in 10 Australians, resources 41 per cent of the nation's gross agricultural production and contributes approximately $23 billion to the Australian economy annually. It is an iconic symbol of Australian heritage and culture and it is a significant tourist and holiday destination.

Politically, particularly in South Australia where the physical signs of environmental degradation are so apparent, concerns regarding the Murray River are no longer the sole domain of environmentalists and farmers. In fact, a survey conducted by the *Advertiser* on 2 January this year revealed that 78 per cent of respondents rated Murray River salinity problems as their top concern. This was above electricity prices and road safety, and I understand that subsequent surveys have actually moved the concerns of people with regard to the Murray River up rather than down the scale.

As part of its election policy the Labor Party announced the creation of a minister for the Murray and consolidated the administration of Murray River issues into the Department of Water, Land and Biodiversity Conservation, and further consolidation of legislative and administrative power to the Minister for the River Murray is proposed in this bill. The River Murray Bill will affect a total of 19 separate pieces of existing legislation. Some of the acts affected by this bill are the Aquaculture Act, the Crown Lands Act, the Irrigation Act, the Murray-Darling Basin Act, the National Parks and Wildlife Act, the Native Vegetation Act and the Petroleum Act 2000. There are a number of others, but those are some of the major pieces of legislation that will be affected by this bill.

At a federal level, the federal government has promoted the Murray-Darling Basin as an issue of national significance. Throughout negotiations for federal agreements such as the Murray-Darling Basin agreement, the National Heritage Trust and the National Action Plan for Salinity and Water Quality, Senator Hill, who was also minister at the time and, later, Minister Truss had reiterated the need to prevent the issue from degenerating into parochial fights between the states.

From time to time people from both sides of politics certainly express a desire for the control of the Murray to be centralised into the federal sphere. Personally, I am not one of the people who promote or believe that that would be an answer, and I believe that the very basis of federalism would be challenged by such an issue. However, emphasis has been placed on the recognition of interdependence and the notion

of shared responsibility, and largely that responsibility has taken place, although certainly part of the federal government objectives are challenged by some of the other states.

The goal of achieving a national approach is under threat, primarily due to the lack of cooperation from Queensland and, to a lesser degree, New South Wales. Queensland is the only state to refuse to sign the 1995 Murray-Darling Basin agreement on caps, and also the only state that has not implemented land clearing prevention strategies. New South Wales continues to breach the Murray-Darling cap in a number of river systems, and it has been identified as having inadequate monitoring systems. It also has a poor reputation for enforcing land clearing laws. However, I think it is an over simplification to blame those upstream for the problems that affect South Australians.

The environmental decline of the Murray River has long been recognised by the South Australian Liberal Party and, I concede, by all parties. There is no doubt that the problems of the Murray River are uppermost of all our concerns; how we address them, however, is where we certainly are divergent from each other. The South Australian Liberal government first proposed the $300 million initiative of 2001. This was funded through the Natural Heritage Trust as a major project to celebrate the Centenary of Federation. We have continued to commit and adhere to the national agenda. Under the Liberals in South Australia, South Australia has adopted and rigidly adhered to the 1995 Murray-Darling Basin agreement which caps the amount of water that can be extracted from the Murray, and it was the first state to sign and commit significant funds to the National Action Plan for Salinity and Water Quality, at a total of $100 million over seven years.

Under minister Brindal the South Australian parliament established a select committee on the Murray River priority recommendations, and I would like to dwell for a time on some of those recommendations. The committee recommended that the government ensure that South Australia's salinity obligations and targets for catchment health be in place by December 2002. It further recommended that policies to address both the imbalance between South Australia's water allocations and the cap on water use as well as works and water management be put in place and implemented. It recommended that the Murray-Darling ministerial council implement a joint basin-wide program to increase the flows of the Murray Mouth. It further recommended that this be jointly funded 50-50 between the partner states and the commonwealth government.

Flows at the Murray Mouth would be used as a benchmark to gauge evaporative losses, water distribution infrastructure and on-farm water management techniques. The committee recommended that the South Australian government commit the necessary resources to complete rehabilitation in this area by 2005 and that the government partner with the irrigation industry to assess the capability of new irrigation technology. I failed to read that that recommendation was specific to the lower Murray reclaimed irrigation area.

Certainly, this government has badly failed the people involved in that area and has failed to implement that recommendation of the select committee. The committee also recommended water trade; that the Murray-Darling Basin ministerial council adopt necessary policies and processes to facilitate permanent water trading across the entire basin water; and that the government establish a national water exchange to oversee the water market. It recommended that the South Australian government develop a water management strategy for metropolitan Adelaide to reduce water diversions from the Murray River and recommended that the federal government introduce changes that would permit private investment in accredited water saving devices and technology to be 100 per cent tax deductible. It further recommended the reduction of all remaining effluent ponds from the Murray River flood plain by 2005 and that storm-water run-off and leakage from septic tanks on rural farms be controlled.

It further recommended that the government initiate investigations into direct irrigation drainage water to disposable basins outside the riverine system. The committee recommended that stakeholders within the Snowy Mountains Hydro-Electric Scheme exercise diligence in achieving the environmental flow objectives for the Snowy River without compromising the health of the River Murray system, and that all parties accept the fact that environmental flows are necessary for both the Snowy and the Murray-Darling Basin.

It further recommended that the current proposal for joint government enterprise be replaced by a single agreement of all Murray-Darling partners. The committee recommended that the Murray-Darling Basin Ministerial Council and Commission assume responsibilities for the administration and allocation of environmental and natural resource management funds. Finally, it recommended that the South Australian parliament ensure that the parliament have oversight of issues associated with the management and use of all water resources in South Australia.

Furthermore, it recommended that a committee for water resources be required to provide parliament with a biennial report on the implementation of the committee's recommendations and other matters. The introduction of this bill is, in some ways, a logical progression from where the Liberal government left the importance of the River Murray. No-one can deny that we are in need of urgent remediation. Last week a number of my colleagues and I went on a trip. We travelled from Goolwa through to Renmark addressing and listening to the people involved with some of the problems that are part of the River Murray system.

We were privileged to go on a boat trip with a fourth generation Murray mouth fisherman who has fished in that area for some 40 years. To say that he is concerned about the future of the river would be an understatement. He was able to quote to us nine species of fish that have completely disappeared from the system in the last 20 years, simply because of increased salinity and lack of water flow. This government held a summit some few months ago at which all participants agreed (including those from other states) that the necessary increase of environmental flow for the river to remain healthy and for the mouth to be open is 1 500 gigalitres.

However, it needs to be remembered that the total capped allocation for South Australia's water is 1 850 gigalitres. Of that amount, we currently use 680 gigalitres, or thereabouts—in fact, well over half of South Australia's total allocation that we are allowed to use is currently flowing to the Murray mouth, yet it is still closing over. How that can be fixed is never as simple as it may sound and, certainly on this occasion, it is compounded by drought. It is very easy, I think, for people in South Australia to say that all this would be fixed if we stopped rice farming and cotton growing.

However, there are some 119 rice-growing licences in one area alone this year and, as a result of the restrictions in other states, only 11 of those crops were grown. So, many of the people whom we accuse of being the first users, the polluters

and the greedy people who restrict our water in fact have much more savage restrictions than we have. South Australia is, in fact, the first and, I think, the only state to have legislatively required, since the 1960s, that a percentage of our water (and, from memory, I think it is 7 per cent of our entire entitlement) must at all times be conserved for environmental flow. As I say, that was legislated as far back as the 1960s.

This problem is not going to go away; and it is not going to go away because we have introduced a bill that gives unprecedented and quite frightening powers to one person. I would like to commend Ms Karlene Maywald (the member for Chaffey) for her particular amendment, which insisted that economic considerations be taken into the objects of the act because, until then, only environmental considerations were written into the act. I passionately believe that for anything to remain sustainable it must be sustainable along the triple bottom line, which, of course, is environmental, economic and social.

If some of the areas that are being suggested by this bill actually come into play, it certainly will mean (not could, will) the demise of our dairy industry. It could certainly strongly affect our citrus industry, our almond industry and our wine grape-growing industry, yet those people are operating more efficiently than they have ever operated before. It has been pointed out to me that most of them have made reductions in water use of up to 50 per cent over the last 10 to 15 years. Another of the populist views about what would fix the health of the river is that if we were to set a commercial rate for the cost of water, if we made people pay for it, then only the most sustainable industries would survive.

I spent a number of years involved with the Food for the Future program, which is one of the very exciting and very successful export programs in this state. During that time we developed an overseas citrus market, which means that we now export particularly Washington navel oranges to America at off-peak times for its own navels, which has significantly added to the citrus industry. However, the other day it was pointed out to me that it costs some of the citrus growers, whom I visited and who have a larger holding, certainly, $200 000 a year simply for the electricity to pump their water.

Some of those people do not necessarily have the facility to pay large extra amounts for the water they use. I mention this because it is very easy and very populist to bring out these simplistic solutions for what is a national problem with considerably more difficulty than is suggested within this bill. I must say that the powers of the minister within this act quite frighten me, and they would frighten me equally if they were in any other act. If the bill goes through as it is, this minister has oversight for anything and any act, including the several that I have already suggested that he (not anyone else) deems to affect the health of the river.

My questions are: why would his view take precedence over, for instance, the Minister for Primary Industries, the new (or deemed to be new) Minister for Population or the Minister for Regional Development? What is wrong with all those people having some input into the sustainability not just of the river but also of the population that lives and makes its living along the banks of the river? I think that the Hon. Diana Laidlaw pointed out that the minister has an overarching prerogative over planning mechanisms not just along the river but also on the Hills Face Zone and any of the tributaries and any of the waterways—

The Hon. Diana Laidlaw: And townships.

The Hon. CAROLINE SCHAEFER: —and, of course, townships and ground water that are deemed to be within the area influenced by the River Murray. That is, Whyalla, Port Pirie and, in fact, about two-thirds of the state of South Australia. As I have said, he has overarching power over the Minister for Urban Development and Planning; the Minister for Agriculture, Food and Fisheries; the Minister for Regional Affairs; the Minister for Mineral Resources Development; and the proposed minister for population. Therefore, I cannot see that this is going down anything but a populist path that will look good in the papers, or that it really has much to do with developing a policy that will save the river. In addition, I cannot see why, having introduced this legislation, we must focus purely on the River Murray. Surely, one of the remedies for the river is to find other sources of water—perhaps with desalination or with further exploration. What is wrong with an overarching water resources department?

This bill has so many problems. As I continue to say, this measure is more about the power of an individual than about saving what I have called an icon not only for our state but for the whole of the nation. I can see nothing in the bill that considers those whose livelihoods are affected by it. For example, I am not sure that local governments in the region are fully aware of the problems—particularly those in places such as Langhorne Creek and the Hills Face Zone. Are they aware of some of the implications of this measure? Do they know that, whether they are aware or not, an order can be made against them that can cease or restrict any development in the region without the permission of one particular minister? I reiterate that I see this bill as much more about individual power than about saving the River Murray.

Finally, certainly after the select committee and the debate in the other place, when many amendments were moved and passed, this bill still comes to the council with holes that you can drive a very large truck through. Mention was made of a committee to oversee the administration of the legislation. However, this committee has absolutely no teeth. Does it liaise with the minister who, in fact, is now answerable to no-one? Indeed, does it need to be a standing committee, or would a select committee suffice? Why has it now turned into a natural resource management committee, as opposed to a River Murray committee? If it is set up as a permanent standing committee (a natural resources management committee), what happens to the current Environment Resources and Development Committee? Surely, some of the work of this committee can be done by the ERD Committee. In principle, I support the bill and the second reading, but I say now that I will subject it to intense questioning and probably another raft of amendments before we finish this debate.

The Hon. T.G. CAMERON: This bill has been introduced as part of the Labor Party's election commitment to fix up the River Murray. However, it will need to do a lot more than introduce this bill to do so, but at least it is a start. Whilst various acts concern the preservation and sustainable use of our water resources, it is clear that the River Murray needs special legislation to ensure that it continues to be a viable resource for all South Australians. The bill outlines its objects as obtaining a healthy, working River Murray system, sustaining communities and preserving unique values. Development and other activities must be ecologically sustainable and not harm the river system. This takes the form of river health objectives, including the restoration of habitats

in the flood plains and wetlands of the Murray and the prevention of the extinction of native animals, fish and vegetation.

The water quality objectives include general improvement of the quality of water, reduction of algal blooms, salinity and impact of sedimentary pesticides. Human dimension objectives include advancement of community, cultural, historical and indigenous interests, knowledge and the promotion of the economic, social and cultural prosperity of the communities along the river. Water flow objectives include the reinstatement and maintenance of a natural flow regime, keeping the Mouth open and improving the connectivity between the environments of the river.

The minister has several functions under this bill, and they are as follows:

- prepare an implementation strategy;
- coordinate policies, programs and administration of this and other River Murray acts;
- undertake monitoring programs;
- promote research and public education in relation to the protection, improvement and enhancement of the River Murray;
- review the functions and objectives of the act;
- prepare an annual report that will assess the extent to which the objects are being met; and
- address issues related to enforcement.

Every three years, a report must be prepared that assesses the interaction of the act with other operational acts and the health of the River Murray generally.

I indicate to the council that I will move an amendment that will require the first triennial report to be brought down by March 2006 so that the voters of South Australia will have the opportunity to consider what progress has been made in relation to the River Murray prior to voting in March 2006. The minister may also undertake work to carry out the objectives of the act; that is, he can enter into an agreement with a landowner to provide for works; to restrict activities; to provide for environmental or management programs; to provide for testing; and so on. Agreements may provide for the remission of rates, taxes or levies. The minister may authorise incentive payments to enter into agreements, which will be registered against the instrument of title or the land. Management agreements will have no effect until they are so noted by the Registrar-General. The minister will be able to acquire land under the Land Acquisition Act.

When assessing a statutory instrument or authorisation—that is, a plan or policy under this legislation—the minister must have regard to the objects of the legislation and the effects, both independent and cumulative, on the River Murray. The minister may publish policies relating to the approach in relation to authorisations, or classes of authorisations, under the legislation. For the purposes of this legislation, authorised officers will be appointed by the minister and will have the power to use force to enter a place or vehicle on the authority of a warrant issued by a magistrate, or if immediate action is required in the circumstances.

I am a little uncertain about what immediate action would be required that would obviate the need to have a warrant issued by a magistrate; perhaps the government will outline those circumstances. I am always wary about giving government officers an unfettered right to walk onto any person's property without a warrant issued by a magistrate. I discussed this issue with the previous minister for water, the Hon. Mark Brindal. I will not support this clause, and my attitude to this bill will be compromised unless I receive sufficient answers as to what circumstances would require a water inspector to walk onto property unannounced. The previous minister, Mark Brindal, did not convince me on this issue; perhaps the new minister will be able to do so.

I also note that it will be an offence to hinder, obstruct or abuse an authorised officer, or mislead or fail to answer an officer, except where that may lead to self-incrimination. Again, a question I ask is: what rights do individuals have if they feel that they have been obstructed or abused by an authorised officer? Will that be an offence as well? If not, then it should be. The bill establishes a general duty of care a person must have to prevent or minimise harm to the River Murray. If this duty is not met, the protection, reparation or interim restraining order may be made against that person by the minister. These orders may be appealed to the Environment, Resources and Development Court. Failure to obey or follow the protection, reparation and restraining orders will be an offence, while failure to meet the duty of care is not.

The provisions of this act do not affect native title. No liability lies on any person, or the Crown, if damage is caused to land, or the use and enjoyment of land are affected by a decision made under this act, provided the person is acting under the authority of the minister and the action is taken in order to protect, restore or enhance the Murray and further the objectives of the act. There are also general offences, public information and liability clauses included in this bill. Although this bill, on its face, is an administrative bill, it is an important bill that allows the government to coordinate its efforts of protecting the Murray. It also hands over a considerable amount of power to the minister to act in certain situations.

I do recognise the government's right to decide how it will administer acts and, if that administration is conducive to good government and efficient results, I will always support any legislative efforts to assist this. However, whether or not it is a success remains to be seen. On that point, the bill does seem to me to be handing a lot of power and authority to the minister. My fear is that that power would be exercised by the minister's bureaucrats, and I have some concern about that issue. Whilst ultimately the protection of the Murray-Darling system must be undertaken on a coordinated national basis, giving the state government the tools to do what it can to assist in its preservation and enhancement is an important step, especially in the face of the lax nature of the other states and the federal government in caring about the end result of their treatment of the system on South Australia. I support the second reading of this bill.

The Hon. J.S.L. DAWKINS: I indicate my strong support for the comments made by the Hon. Caroline Schaefer as the lead speaker for the opposition in relation to this bill. The main focus for me in relation to this bill is that I am keen to ensure that the communities based on the River Murray are assisted and not hindered in their commitment to the Murray. Initially I will make some comments based on my experiences relating to the River Murray, and they are somewhat varied. First, I spent much of my time in my youth on the property occupied and run by my uncle near Berri. Of course, that fruit and vineyard property was based on the old system of open channels, flood irrigation and a huge lack of flexibility in the delivery of water.

In fact, I can remember on one occasion when there was a deluge of rain—probably two or three inches of rain fell in one day—yet the following morning my uncle still had to take delivery of the water that he had ordered. In those days,

there was no ability for him to say no. He did not want to forgo the water in case, if he did, there was a long dry period. Thankfully, we are not now in a situation such as that. That situation is in stark comparison to the modern irrigation practices that we see in the Riverland and in many other parts of the Murray-Darling basin.

However, only a couple of months ago I visited the Sunraysia area of north-western Victoria and south-western New South Wales. In that area you can still witness those very old practices, particularly in relation to open channels where the level of evaporation is very large. I was also reminded of the leakage that occurs from those channels as well when they are cracked. In addition to the experience I gained as a young fellow working and living, on occasions, for a few weeks or months at a time on my uncle's property, in later life I spent some time working in a part-time capacity for the Hon. Neil Andrew, the federal member for Wakefield. While that work was based, firstly, in Adelaide and then in Gawler, for much of that time Mr Andrew represented parts, if not all, of the Riverland.

Of course, he had a very strong focus in relation to the river and still has today because of his background as a grower at Waikerie. In addition to that experience, since my election to this place in late 1997, I have been nominated by my party as the MLC responsible for the seat of Chaffey, as indeed, sir, you have by your party, as I understand it. In that role I have had a very large association with many organisations that have a strong interest in and dependency on the Murray. Some of those are based in the electorate of Chaffey, but others go well beyond that and cover the full length of the river in South Australia.

I will make some mention of those organisations. First, we have the Murray and Mallee Local Government Association, which includes the following councils, Renmark, Paringa, Berri-Barmera, Loxton-Waikerie, Mid Murray, Karoonda-East Murray, Murray Bridge, Coorong and the Southern Mallee. In addition to those councils, the Murray and Mallee Local Government Association also includes the Alexandrina council when River Murray issues are discussed.

Like many other members of this place, I have had quite a strong association with the Murray-Darling Association, largely through its General Manager, Mr Leon Broster, but I have also been aware of the voluntary work done by many people in relation to the Murray-Darling Association, right along the length of the Murray and the Darling. I am also aware of the new foundation that the Murray-Darling Association has established, to which it is hoping to attract philanthropic donations, so that the environmental work that the association has done can be continued in a sustained way.

I have also had a considerable amount of involvement with the Central Irrigation Trust. That trust was established in the mid-1990s to manage the irrigation assets which were formerly owned by the South Australian government and which were transferred to eight individual district trusts, ranging from the Chaffey area north of Renmark to Mypolonga. Those trusts, along with the interim trust for the Loxton irrigation area, which was commonwealth owned, are administered by a board, which also runs the Central Irrigation Trust. It represents a large number of irrigators on the River Murray in South Australia and has a strong view about the way in which the river should be managed.

I have had quite a bit to do with a number of other bodies which, as I said earlier, represent the views of people who have an interest in and a dependence on the Murray. Some of them include the River Murray Catchment Water Management Board and the Riverland Horticultural Council, which represents a range of commodity groups in the Riverland, and today there is much more diversification in the horticultural crops grown in the Riverland than in the days of my youth.

The Riverland Development Corporation was probably the earliest of the development boards established in South Australia, and it has been a very stable organisation. It worked very hard in the days when a lot of the industries based on the Murray were in some trouble and it has had a considerable role in ensuring that the Riverland today has a much stronger economy. I have also had some association with the Murraylands Development Board, which looks after a lot of the Lower Murray areas and the Mallee. A range of other organisations such as the Bookmark Biosphere and many other environmental and industry organisations have a strong feel for the river because, without the river and the water that comes down it, those industries would not exist, and, if they did not exist, that would have a profound effect on the state.

There is general community support, I believe, for the establishment of the position of the Minister for the River Murray and for the River Murray Bill, and I think that comes from the widespread concern about the future of this lifeline. This concern has been demonstrated in South Australia by a range of actions over the last 3½ decades. I strongly support the work of the Murray-Darling Basin Commission, which, despite the inability of the state partners and the commonwealth to agree on occasions, has done tremendous work, particularly with the salt interception projects that are evident in South Australia. I was reminded last week that, as a result of that salt interception work, the salinity levels at Morgan have fallen for each of the last five years. That is an achievement, but we need to do far more.

It is well known that South Australia has long recognised the need to manage the water extraction from the Murray Basin in a careful manner. In this state, we instituted our own cap in the late 1960s, and we have been instrumental in encouraging other states to adopt the principle of the cap over the last decade. South Australia has taken a leading role nationally in encouraging efficient irrigation and water use as part of a total property management planning approach, including the introduction of desalinisation schemes as part of the river's management. South Australian irrigators are amongst the most efficient in Australia, and many areas of the state grow predominantly high value crops.

I return to the Murray and Mallee Local Government Association and the work it is doing with Planning SA on the development of a PAR for the entire River Murray Basin in South Australia. They should be commended on that work because it is very important and it fits in very well with the development of a bill for the entire River Murray Basin. I have a copy of a summary from the *Murray and Mallee Briefs*, the newsletter of the Murray and Mallee Local Government Association, which summarises the submission that the Murray and Mallee Local Government Association made to the minister. It reads:

> The M&MLGA supports the general principles of the legislation, recognising that there has long been a need for leadership in addressing the River Murray and the resource that it provides for not only river and Mallee communities, but many other areas across South Australia. However, there are some matters that we have brought to the attention of the minister, our members of parliament and all Legislative Council members. Briefly, these involve—
>
> 1. Resourcing—We have previously stated, and continue to emphasise, that the act will need a significant commitment in resources from government to support the legislation.

2. Consultation—In a previous submission we sought an assurance that the M&MLGA [and councils] are relevant bodies when the minister 'is required to consult'. While we have been advised 'that the Murray and Mallee LGA and councils within the Murray-Darling Basin are all relevant bodies for the purposes of the minister's functions under clause 9 of the bill ('(1)(d) to consult with all relevant persons, bodies and authorities. . . '). We also raised the need for consultation to be specified in the bill in the preparation and maintenance of the River Murray plan; and in the establishment of policies in connection with the minister's functions in assessing statutory authorisations; and when considering all forms of regulation; River Murray protection areas; management agreements on land within a council area; development of policies; etc.

3. Reporting to parliament—We have again asked that the bill be amended to provide that the minister [of the day] be called upon also to assess 'the effectiveness of the act when reporting to parliament on the act'.

4. Section 17—Management agreements—We note that this is a new section that has been included following consultation. It provides that 'a management agreement may, with respect to the land to which it relates. . . (i) provide for remission of rates or taxes with respect to the land. It is our submission that a further provision be introduced that provides that prior to including such a clause in a management agreement the Minister shall consult with the relevant Council. Such a clause supports the principle of transparency.

5. General duty of care—(section 22)—There is a provision in the bill that a person must take all reasonable measures to prevent or minimise any harm to the River Murray through their actions or activities. It also provides that that person will not be in breach of that provision if that person 'is a public authority exercising, performing or discharging a power, function or duty under this or another act'.

While the bill provides a definition of 'public authority' that includes the Crown (Minister); an agency or instrumentality of the Crown or any other prescribed person or body acting under the express authority of the Crown, we have posed the question as to whether this includes Local Government and have asked that it be included specifically.

That is the end of the extract in relation to the Murray and Mallee Local Government Association. There has also been concern about the nature of the regulations, and I note that there has been consultation between the Department of Water, Land and Biodiversity Conservation and member councils of the Murray and Mallee Local Government Association. I urge that that continue because the Mid Murray Council, in a letter from the Chief Executive Officer, Mr Glenn Brus, responding to my request for its thoughts on this legislation, states, in part:

As you are aware the important detail of any legislation is often contained in the regulations and in this regard council believes that it is essential that consultation take place with local government before any regulations are finalised.

I know that consultation has commenced, and I hope it is continued to the satisfaction of local government.

There is concern about the powers of the Minister for the River Murray in relation to development, and there are elected members and staff of councils who are concerned about the fact that, as I understand it from the department, if the River Murray minister and the planning minister cannot agree on development, it will be sorted out by cabinet. That is all very well, but it is very difficult for a local planning officer in a council to give advice to people about developments if ultimately that has to go to cabinet to be sorted out. There needs to be certainty in relation to developments which are good for the communities and which will assist them to continue to be vibrant and viable. One would hope that this situation in relation to the power that the River Murray minister could have to stop developments is not used unwisely.

Further to local government and the Murray and Mallee Local Government Association, and not directly relating to this bill but of relevance, is an extract from the Murray Mallee briefs, as follows:

The association has written to the Minister for the River Murray, the Hon. John Hill, asking the state government to conduct a 'water audit' in the Murray Darling Basin in South Australia to ascertain where the loss of at least 650 to 750 gigalitres of water is occurring in an entitlement flow year. The request of the Murray and Mallee Local Government Association is supported by its understanding of the following—

· the allocated or entitlement flow is 1 850 gigalitres and makes provision for authorised extraction/permits etc. [800 gl] and recognised losses, evaporation etc. [800 gl]. It provides for an environmental flow of 250 gl through the mouth.

· not only have we not had the latter through the mouth but the river has dropped from pool level by an estimated 500 gl—an estimated 25 per cent of capacity of 2 050 gl.

· the 'unknown' loss—250 gl (no environmental flow) plus 500 gl (reduction from pool level)—of 650-750 gl, for which we have asked the state to conduct a water audit to determine where this loss has occurred between the border and the mouth.

My colleague the Hon. Caroline Schaefer mentioned earlier that many Liberal members of this parliament as well as lay colleagues on our party's rural and regional council executive spent three days last week visiting communities the full length of the River Murray in South Australia, starting with a visit by boat to the Murray Mouth and going on to communities such as Langhorne Creek, Mannum, Ramco, Woolpunda, Barmera, Berri, Loxton, Renmark and so on. One of the things that is most stark in my memory of that trip, having seen a lot of the things I was able to witness previously, is that people who had not had the benefit of that previous observation made strong comments about the positive nature of the newly completed rehabilitation of the Loxton irrigation area. I refer to the comparison between what is available in Loxton, where the funding was 40:40:20 federal, state and grower, compared with what has now been offered to the Lower Murray irrigators who now exist in the last unrehabilitated irrigation system in South Australia.

I complimented the government earlier on consulting local government bodies, and particularly the Murray and Mallee Local Government Association and the Alexandrina council in relation to regulations, but I am disappointed to learn that no consultation has been conducted with either the Mount Barker or Adelaide Hills councils, despite the fact that some of their territory is included in the proposed River Murray protection zone. While many of the tributaries that run into the lower section of the Murray are in the Alexandrina council and have been included in the earlier consultation, the Mount Barker and Adelaide Hills councils have been left out of the loop. Considering that everything on the eastern side of the range potentially contributes to the River Murray and is included in that River Murray protection zone, this situation should be addressed quickly.

I would also like to put on the record my concerns about the suggestion that a standing committee be established in relation to part of this bill. Initially I understood that the proposal was for the standing committee to be specifically on the Murray River. There were then suggestions from all sides of politics that it be broadened to be a water resources standing committee and, more recently, a natural resources standing committee.

The Hon. T.G. Roberts: Hear, hear!

The Hon. J.S.L. DAWKINS: The minister in his place says 'Hear, hear!', but, like me, the minister was also a member of the Environment, Resources and Development Committee of the parliament and I really am concerned about the overlap between a natural resources standing committee

and the Environment, Resources and Development Standing Committee. It really makes me wonder what boundaries would need to be drawn between those committees. The minister would well remember that sometimes we thought the ERD Committee should have been addressing some issues that were being looked at by some others. I think the potential for that in this area is enormous. For that reason I think it might be more appropriate that there be a select committee of both houses to look at the management of the Murray River in the three years up to the next election and then, if the parliament determined that it would be more appropriate to have a standing committee in that area, it could establish it after the next election.

I have a question that may be answered later in response to the second reading debate or even in the committee stage. While the Department of Water, Land and Biodiversity Conservation has consulted with a number of the stakeholders, I am interested to know what level of consultation has taken place with Primary Industries and Resources SA. Perhaps that information could be provided to me at a later time. While the responsibility for those environmental matters and matters relating to water have been taken away from PIRSA, I think that that department should have had considerable input into the development of this bill, and I am not sure that that has taken place.

I do acknowledge that a number of the amendments put forward by our party in the lower house were accepted by the Minister for the River Murray, and from that point of view I think the bill has been improved. I indicate my overall support for the bill but, ultimately, the community (and when I say the community I think that includes not just river communities but also the community of South Australia, which relies on the Murray River) will be looking to see what difference, if any, this bill can make.

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

MURRAY-DARLING BASIN MINISTERIAL COUNCIL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: This ministerial statement was made today by my colleague the Hon. John Hill in another place. It concerns the recent Murray-Darling Basin Ministerial Council but as I am also a member of that council I believe I should read to this place the statement that minister Hill made. I rise to inform the council of important outcomes from the 33rd Murray-Darling Basin Ministerial Council meeting held in Toowoomba, Queensland, last Friday. Negotiating with six governments across the Murray-Darling Basin Commission can be slow going. However, I can report that progress has been achieved. The council formally resolved to:

> direct the Commission to prepare for its consideration in October 2003, a proposal for a first step decision towards the Council's vision for a healthy River Murray system that will deliver measurable and integrated ecological, social and economic outcomes.

This means the next meeting of the council in November will be critical to the future of the river.

Three important decisions will be taken. First, the council will agree how much extra water will flow down the Murray as a first step. South Australia's position, supported by the Murray River Forum, is for an extra 500 gigalitres over five years—a substantial down payment for a long term solution. Although some may consider this amount to be at the higher end of the scale, it is appropriate that our state be ambitious about the target. Secondly, the council will receive recommendations on the costs of delivering this extra water and how jurisdictions should share the costs. Thirdly, the council will consider how the commitment for extra water will be implemented. The Toowoomba meeting of the council also agreed that, over the following decade, the Murray-Darling Basin Ministerial Council expects to see a healthier river, a more prosperous and sustainable irrigation sector and more efficient water resource management. The outcomes from Toowoomba are not inconsistent with the Adelaide declaration adopted at the River Murray Forum earlier this year. State and federal parliamentarians agreed then that an extra 1 500 gigalitres are needed in the long term to save the river for future generations. The council agreed last week in Toowoomba that ministers consider a first step to be taken this year to put the Murray-Darling on the path to a long-term solution.

The council was updated on the outlook for water availability over the 2003-04 season. It is evident that the recent drought is far from broken. At this stage South Australia cannot be guaranteed its full entitlement flow. While the assessment will be updated on a monthly basis, it is not expected to improve appreciably before September 2003 even if there is significant rainfall over the next few months. South Australia has been on monthly entitlement flows since December 2001. Given the likelihood of reduced entitlements, significant water restrictions will be considered for all South Australian users of River Murray water in an effort to minimise these impacts. The government is currently assessing the level of restrictions that may be necessary and will make an announcement soon. The ministerial council also agreed to an extension of the Murray mouth dredging project to ensure that a channel on the Goolwa side of the mouth is maintained and a channel to the Coorong is excavated prior to next spring. The decision on how these dual objectives can best be achieved will be made within a month. It may well be that a second dredge is used to ensure that both the Goolwa side and the Coorong remain open. The council has allocated $1.1 million to the task as part of the 2003-04 budget.

The plight of the Murray River is a concern for all South Australians. Today I issue an invitation to all members of parliament to attend a briefing about the conditions of the Murray and the implications for the state, including water restrictions. The briefing will be held this Thursday at 11.30 a.m. in the Balcony Room with the Minister for the River Murray and the Chief Executive of the Department of Water, Land and Biodiversity Conservation.

HINDMARSH ISLAND BRIDGE

The Hon. DIANA LAIDLAW: I seek leave to make a personal explanation related to the Hindmarsh Island bridge.

Leave granted.

The Hon. DIANA LAIDLAW: I refer to the article by Colin James on page 5 of the Review section of the *Advertiser* last Saturday 10 May referring to 'those who wouldn't talk' to the author of a new book, *Meeting the Waters*, journalist Margaret Simons. It is correct that I declined the invitation to speak to Ms Simons. My opposition

to the bridge was well known and readily available on the public record to any diligent researcher. I was also conscious that I was already the subject of a defamation claim by the Chapmans, which has since been dropped. The *Advertiser* article lists me as one who would not speak, accompanied by a photograph, and states:

> They include former Aboriginal Affairs Minister Michael Armitage and his sister-in-law former Transport Minister Diana Laidlaw. Both are landowners on the Island and voted in State Cabinet for the Brown Liberal Government to hold a Royal Commission.

Never have I owned or leased any land on the island, nor has Dr Armitage. In fact, I so detest the bridge that I have never been over it and I cannot envisage the circumstances when I ever will. Professionally and personally I also take extreme offence at the *Advertiser*'s inference, arising from its false land-holding accusations, that I had a conflict of interest when the cabinet decision was made to conduct a royal commission. I will take this matter further with the *Advertiser* and possibly with the author of *Meeting the Waters*.

PROHIBITION OF HUMAN CLONING BILL

Adjourned debate on second reading.

(Continued from 30 April. Page 2171.)

The Hon. DIANA LAIDLAW: I support the second reading of this bill and recognise that the government has moved that there be a cognate debate for both the Prohibition of Human Cloning Bill and the Research Involving Human Embryos Bill. For all Liberal Party members and, I understand, members of parliament generally, these two bills are to be considered as conscience votes. I support the second reading of both bills and will seek to facilitate early passage of the bills through the committee stage and the third reading.

Together, the bills seek to ban human cloning and other practices associated with reproductive technology that are deemed unacceptable and to provide for limited regulated research involving excess human embryos. Both bills arise from decisions taken by the Council of Australian Governments (COAG) in April last year, which included the desire for a nationally consistent approach to regulating research involving human embryos. I strongly support that objective and note that, at the present time, South Australia, Western Australia and Victoria have similar legislation; and those three states but not other states have applied a very restrictive licensing requirement in relation to embryo research.

They have had those restrictions in place for many years. I do not think that it is desirable in this area of research on embryos, or other restrictions placed on embryos, that there should be an inconsistent approach across governments. I support the COAG recommendation in terms of national consistency and recognise that this bill reflects commonwealth acts that were passed in December 2002. Of all the matters addressed by the two bills, I suspect that the most difficult and sensitive issue before us is the one on embryo research.

Briefly, I support this proposal for the following reasons: first, research will be allowed only under a very strict regulatory regime and, to my knowledge, such strict regulatory regimes, as established by this and other parliaments over the years, have been observed strictly by those responsible for those regulatory regimes. I think that we can have confidence that the regimes we establish arising from this bill will be observed based on past practice. Secondly, the only embryos that can be used in further research are those created by assisted reproductive technology treatment and only when the embryo donors have given their consent.

The donors are also able to specify restrictions on the research uses of such embryos, and those restrictions by the donors are, in fact, in addition to the restrictions that we would be applying through legislation. Thirdly, these embryos would otherwise be destroyed after a set period in storage, and the legislation requires that only embryos in existence before 5 April 2002 could be used. I think that, when he moved the second reading of the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 in the House of Representatives on 27 June 2002, the Prime Minister made a very relevant remark in relation to the current arrangement where embryos are destroyed after a certain period of time. At that time, the Prime Minister said:

> Having conscientiously applied myself to this issue, I understand and respect that others in good conscience will come to a different conclusion. That is why, as I have said, every member of the coalition party will exercise a free vote. Some members have argued that the bill should be split in two. . .

The Prime Minister also said:

> I could not find a sufficiently compelling moral difference between allowing embryos to succumb in this way, that is, in terms of disposal after a set period in storage and destroying them through research, that might advance life-saving and life-enhancing therapies. That is why, in the end, I came out in favour of allowing research involving excess IVF embryos to go ahead.

In relation to those comments by the Prime Minister, I highlight that he is not known to be a radical liberal. He is not known to be passionate about social reform. If he can come to this decision that there is a basis for limited research with embryos, one can only accept that it is a very conservative approach, and I believe it is. I believe it is a very wise compromise with a lot of potential to advance life-saving and life-enhancing therapies for debilitating diseases. I therefore believe that this measure can be supported with considerable confidence.

I note, too, that in line with the Prime Minister's conservative approach to this matter, which was supported unanimously by all Australian and territory governments, the bills provide for an ethics committee to review the whole practice. This ethics committee was established by COAG to report within 12 months on protocols to preclude the creation of embryos specifically for research purposes with a view to reviewing the necessity for retaining a restriction on embryos created after 5 April 2002.

It was further agreed, as the Prime Minister outlined, as follows:

> . . . to request the National Health and Medical Research Council to report within 12 months on the adequacy of supply of excess IVF embryos.

For the reasons I have outlined, coupled with the conservative approach which I believe has been adopted in this instance to which I add the reviews the Prime Minister secured through COAG, I indicate with confidence that I support the second reading and other stages of this bill.

The Hon. CARMEL ZOLLO: I am pleased that we are debating these two pieces of legislation at the same time. It is a very sensible decision. Of course, the decisions we make will be up to our conscience. For the record, I indicate that I support the prohibition of human cloning legislation. I am opposed to the cloning of a human embryo that is a genetic copy of another living or dead human. I note that a human embryo clone does not have to be completely genetically

identical to the original human to be considered a clone. Apparently, in order to prove that a human embryo clone is a genetic copy of a living or dead human, it is sufficient to show that a copy has been made of the genes—a nucleus of the cells of another human. The copy of the genes does not have to be totally identical. Such human cloning is totally unethical and unnecessary.

I also indicate that I will vote against the Research Involving Human Embryos Bill 2003. As we have heard, this legislation will, by a COAG agreement, be enabled by the overriding powers of the commonwealth. So, essentially, we are rubber-stamping a decided outcome. Existing laws in South Australia already protect embryos from destructive research. In 1988, members of the South Australian parliament voted to give legal protection to embryonic human beings when they adopted the South Australian Reproductive Technology Act 1988. Rubber-stamping will mean that that protection will no longer exist.

I have given the issue of stem cell research a great deal of thought for quite some time, particularly about whether the best approach is embryonic stem cell research or adult stem cell research. Of course, I am aware that this bill is not about one form of scientific research versus another, but it is being debated in our community and it would be remiss of me not to discuss it.

The logic behind the scientific argument for embryonic stem cell research is that these cells have the potential to become a wide variety of specialised cell types; that they are surplus to requirements; and that they are likely to be destroyed. So, why not use them if, ultimately, they may assist in saving another human life? On the surface, such an argument is compelling, logical and emotive. When one reads sweeping statements that embryonic stem cell research can lead to miracle cures for many diseases and that it is possible to replicate any one of the cells of the body, it is truly very emotive; I certainly appreciate that.

At the same time, research on an embryo is, I believe, ethically contentious, because embryos have to be destroyed to derive stem cells. Embryonic stem cells are primitive cells—that is, unidentified cells from the embryo derived from the inner cell mass of the blastocyst. The removal of the ES cells results in the destruction of the embryo. There can also be major medical disadvantages, rejection by the host body probably being the main one.

Research into adult stem cells is promising, and significant breakthroughs have been made in the last few years, including the very real possibility of isolating a stem cell from adult human bone marrow that can produce all tissue types. Adult stem cells have the advantage of avoiding immune rejection by the patient, as well as protecting the recipient from any possible contamination from another person. In addition to adult stem cells, we have the ability to use proven other non-contentious tissue, such as umbilical cord blood, placenta tissue and bone marrow.

In *News Weekly* of 22 March this year, under 'Medicine', part of a letter from the head of the Queensland Institute of Medical Research, Michael Good, and the head of the Children's Medical Research Institute, Peter Rowe, was quoted. The letter was co-signed by various professors. It stated:

> No scientific imperative for destructive research on human embryos.

By contrast, it advised:

> Research on stem cells derived from adult and placental tissues, which has seen great advances in the last three years, is quite compelling in its clinical promise and does not involve the destruction of nascent human life.

The debate about the use of adult stem cell research and embryonic stem cell research is as vigorous in the medical community as it is outside. Because of the non-legal status of the embryo, it is certainly not as clear cut as some other conscience issues considered in this chamber—euthanasia legislation, for example. It comes down to whether, ethically, one believes that scientific research should progress and when one believes that life begins. If this legislation is passed, it will give this type of embryo a peculiar class of its own—an expendable one.

I take this opportunity to place on record my thanks to Mr Marco Gogolin, an internship student placed in my office last year. Marco was a German exchange student studying law at the University of Adelaide, and he produced a report into stem cell research and human cloning. Mr Gogolin presented his research facts and, whilst he came down against human cloning (as I believe will this parliament), ultimately, his view was that the reader needed to make up his or her own mind about embryonic stem cell research. His comments have been heard before but are worth while quoting again, as follows:

> The fundamental question to be dealt with by every legislator is whether the human being acquires human dignity and unlimited protection from the start of its development—so, on the completion of fusion of the nuclei of the sperm and egg cell—or whether this shall be set at a later point of development.

He went on to say:

> As was shown, different ethical approaches are possible, and so different states have adopted different legal positions.

If this bill is passed, we will be supporting embryonic stem cell legislation for essentially still unproven medical uses. It is no wonder that we need legislation for such research. In addition, general permission is being sought for human embryos to be used in all types of experiments, permission which, in the past, this state saw fit not to grant.

We have all received correspondence from the Catholic Archbishop of Adelaide, the Most Reverend Philip Wilson. Regardless of one's religious beliefs, it is worth while bearing in mind his comments about ethical dilemmas:

> Rather than resolving ethical issues, I believe this legislation, if enacted, will present South Australia with a completely new set of ethical dilemmas and put our state on a course towards creating an expendable class of human life.

If one believes that life begins at conception and in the sanctity and protection of that life, the decision to use embryonic stem cells for research is unethical. As indicated, I will not support the bill.

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

STATUTES AMENDMENT AND REPEAL (NATIONAL COMPETITION POLICY) BILL

Adjourned debate on second reading.

(Continued from 30 April. Page 2192.)

The Hon. R.D. LAWSON: I rise to indicate the support of the opposition for the second reading of this measure. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

MINING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 April. Page 2147.)

The Hon. T.G. CAMERON: This is an administrative bill facilitating amendments to the Opal Mining Act and the Mining Act. It provides for the recognition of negotiating indigenous land use agreements under the commonwealth Native Title Act. It also allows the minister to refuse to accept or consider mining tenements for a particular area that is under investigation or survey by the department if the minister gazettes that area. Applications will now be of a form determined by the minister rather than in writing. Smaller maximum size areas for licences—that is, 1 000 square kilometres for general mining and 20 square kilometres for opal mining—and a more prescriptive process for renewing exploration licences every five years should help generate more activity.

This bill also allows the use of the geodetic datum system (GDA94) in determining the delineation of licences. This, of course, brings us into line with the other states and territories. The bill also repeals unnecessary administrative procedure requiring a subsidiary company to show fact to the minister that it is a subsidiary company when it is making a licensing application. I also support that move as well. In general, I support the second reading of this bill and, unless I am convinced otherwise during the committee stage, I will be supporting this bill.

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

STATUTES AMENDMENT AND REPEAL (NATIONAL COMPETITION POLICY) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2259.)

The Hon. R.D. LAWSON: In my earlier remarks, I indicated opposition support for the second reading of this measure. In April 1995, at a meeting of the Council of Australian Governments, the commonwealth agreed that some $1 billion would be distributed from the commonwealth to the states between the years 1996-97 and 2005-06, provided that the states implement the national competition policy. A number of elements were in that policy, one of which was an obligation of all states to conduct reviews of all legislation which restrict competition. As part of that exercise, the state government has embarked upon a number of legislative reviews, and this measure before the Legislative Council today deals with seven acts of this parliament which it has been deemed affect competition.

The first of the acts mentioned is the Emergency Powers Act of 1941. This was a wartime measure which was to expire when the Governor issued a proclamation declaring that World War II had ended. However, no proclamation was ever issued and this law remained on our statute books. It was not reprinted, for example, in the 1975 consolidation of legislation, and for a researcher looking now it is a little difficult to find that legislation printed in the ordinary sources. However, the act certainly contained draconian powers over economic activity and was highly anticompetitive its being a creature of the wartime situation, and it is entirely appropriate that this act be repealed.

Four of the acts relate to loans and financing schemes. They are: the Advances to Settlers Act 1930, the Loans for Fencing and Water Piping Act of 1938, the Loans to Producers Act, and also the Students Hostels Advances Act of 1961. Each of these was designed to provide support and funds for authorities or individuals. All the loans under these schemes were closed as of 30 June 1998, and these acts are no longer used. Again, it is entirely appropriate that they should be repealed. The Local Government Act of 1999 repealed almost the entire Local Government Act of 1934. However, certain provisions of the 1934 act relating to cemeteries conducted by local councils have remained in force. These provisions are now redundant and this bill repeals them.

The bill also amends section 7(1)(b) and 7(2)(b)(i) of the Conveyancers Act. Anticompetitive elements of that provision create a barrier to entry of this occupation, and there is a current prohibition against persons being admitted as conveyancers if they have been convicted of any offence of dishonesty—and the bar is one that exists for life. The bill will now provide that a person cannot be registered as a conveyancer if a person has been convicted of a summary offence of dishonesty within 10 years preceding their application. However, a conviction for an indictable offence of dishonesty will continue permanently to prevent a person from being registered. The importance of these measures is that consumers will continue to be protected by the prohibition of unsuitable persons from being conveyancers. However, the rather draconian bar to entry to that occupation or profession has been removed.

There is also a consequential amendment to the definition of 'legal practitioner' in the Conveyancers Act. Now this term will have the same meaning as in the Legal Practitioners Act of 1981. This will provide consistency in the definition. The definition of the 'legal practitioner' in the Land and Business Sale and Conveyancing Act of 1994 is also amended to provide consistency in all legislation dealing with conveyancing. I can indicate that confirmation has been obtained from the Law Society, the Local Government Association, the Real Estate Institute and the Conveyancers Society that they have no objection to the passage of this bill in so far as it affects activities covered by those organisations. With regard to the amendments to the Local Government Act affecting cemeteries, it ought be noted that there is a select committee on the cemeteries and that the committee was to table a report in accordance with its terms of reference on 20 February this year. However, the report has not yet been tabled and I am advised that that report will not now be tabled until July. I also understand on good authority that the work of the select committee will not be in any way adversely affected by the provisions that are contained in this bill.

In another place, some adverse comments were made about national competition policy, in particular by the member for Stuart (Hon. Graham Gunn) and the member for Schubert, and I certainly respect the comments of those distinguished members. I also agree with some of their objections to national competition policy. I certainly agree with some of their comments in relation to the adverse consequences for remote and regional communities in Australia where national competition policy has been taken to an extreme measure.

However, zealous adherence to economic policies without regard to individual consequences and individual communities is something that must be deprecated. I am pleased to report that, in my view, none of these measures will have any adverse consequence for the South Australian community.

None of them will have adverse impacts upon regional and rural communities, and it is for those reasons that the opposition indicates support for this measure, notwithstanding some of the reservations that we have about national competition policy. We will be supporting the second reading.

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

WATER RESOURCES (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. SANDRA KANCK: I raised some doubts about this bill when I addressed it in my second reading speech. I have subsequently been provided with what appears to be a much-copied opinion from crown law, which went to the Chief Executive Officer of the South-East Catchment Water Management Board. I was not clear on what the bill was setting out to do and, because this has come to us as a private member's bill without the capacity to be briefed by departmental officers, I feel as though I am taking a stab in the dark. I asked questions about whether or not this would apply to all catchment water management boards and not just the South-East, and I think that my understanding is that the South-East was given as an example and the measure would apply to all catchment water management boards. I did not hear the second reading summing up and I may have missed it, but I would like some clarification as to whether that is the general intent of the bill.

The Hon. D.W. RIDGWAY: It is my understanding that it applies to all catchment water management boards because it amends the Water Resources Act.

Clause passed.

Clause 2.

The Hon. SANDRA KANCK: Having established that it does apply to all catchment management boards, what I want now is some sort of reassurance. This crown law opinion basically says that any ratepayer has a conflict of interest, but there is conflict of interest and there is conflict of interest. I am not a profoundly large water user so, if I were on one of the boards, this provision would give me protection to make decisions when the board meets, because I use a small amount of water and I am a ratepayer. If I were an irrigator and a board member, would this provision allow me to exercise what would be a profound conflict of interest as a very large water user?

The Hon. D.W. RIDGWAY: It is my understanding from reading that advice that, when setting a council rate or a catchment water management board levy, there is a conflict of interest that is shared by all members of that body. However, under the Local Government Act, if in a particular matter a member is deemed to have a personal conflict of interest, that person has to exclude himself from that deliberation. My understanding is that the same would apply for a catchment water management board. So, if a board were deliberating on an individual's irrigation licence or allocation, that person would have to declare their conflict of interest and step aside from that decision, but it would not prohibit that person from being involved in the management of the catchment or the setting of levies.

The Hon. SANDRA KANCK: It is a bit difficult, again with this being a private member's bill which has government backing, to ask for some undertakings. If this conflict of interest provision is somehow misused, and a very large water user, an irrigator, is allowed to actively exercise conflict of interest, will we have amending legislation back in this parliament to deal with this?

The Hon. P. HOLLOWAY: That is really a question for the government. As we understand the bill, it is a fairly minor matter to clarify a situation that has come up on catchment water management boards as to what conflict of interest means, and this measure clarifies it. If someone made a decision on a catchment water management board and if someone wanted to challenge it because of a conflict of interest, they could do so.

The purpose of this amendment is to clarify the position for those members on the board. If there were any concern by the public that this had somehow or other been misinterpreted or was being interpreted in such a way that was not intended, the government would have the option of coming back and addressing it. The government has supported this bill, I understand, on the basis that it clarifies the position for members on the board so they can act with some comfort in relation to decisions. If concerns are raised about it subsequently, the government has the option to amend it, but I would not envisage that happening as I understand it.

Clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CORONERS BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

The *Coroners Bill 2001* was introduced by the former Government on 31 May 2001. After passing one House with amendments, the Bill lapsed upon the calling of the election.

The Bill proposed important changes to the coronial jurisdiction in South Australia. The Government, then in Opposition, supported these changes.

The *Coroners Bill 2003*, for the most part, repeats the 2001 Bill as it was introduced. It repeals the *Coroners Act 1975* and makes related amendments to other South Australian Acts.

Part 1 of the Bill contains the formal preliminary clauses including the interpretation provision. One of the key definitions is that of 'reportable death'. Reportable deaths are those deaths which must be reported to the State Coroner or, in some cases, a police officer. The Coroner's Court has jurisdiction to hold inquests to ascertain the cause or circumstances of a reportable death. The term is defined broadly to include the deaths of persons in circumstances where the cause of death is unexpected, unnatural, unusual, violent or unknown, or is or could be related to medical treatment received by the person, or where the person is in custody or under the care of the State by reason of his or her mental or intellectual capacity.

Part 2 of the Bill sets out the administration of the coronial jurisdiction in South Australia. The position of State Coroner is retained. The conditions of appointment of the State Coroner are now protected—a seven year term and appointment as stipendiary are appointed as Deputy State Coroners. Other legal practitioners of at least five years standing may be appointed by the Governor as coroners.

The functions of the State Coroner are largely the same as under the 1975 Act with one important difference; the administration of the new Coroner's Court. The State Coroner is provided with authority to delegate any of his or her administrative functions and the Attorney-General is authorised to nominate a Deputy State Coroner to perform the functions of the State Coroner during the latter's absence from official duties. Part 2 of the Bill also provides for the appointment of investigators to assist with coronial investigations. Investigators will complement the skills of the police officers assigned to perform investigations for coronial inquiries and inquests. The appointment of investigators is new.

Division 1 of Part 3 of the Bill formally establishes the Coroner's Court as a court of record. The Court is to be constituted of a coroner. The Court is given jurisdiction to hold inquests to ascertain the cause or circumstances of events prescribed under the legislation. The Bill provides for the appointment of Court staff, including counsel, to assist the Court. Although the current legislation does not recognise the Coroners' Court, at common-law a coroner is a judicial office, and coroners court are courts of record. The provisions of Division 1 Part 3 of the Bill give formal recognition to the common-law position.

Division 2 of Part 3 of the Bill sets out the practice and procedure of the Coroner's Court. These provisions are, again, generally consistent with the provisions governing the practice and procedure of inquests conducted by coroners under the current legislation. The Court is, however, given greater flexibility to accept evidence from children under 12, or from persons who are illiterate or who have intellectual disabilities.

Part 4 of the Bill governs the holding of inquests by the Coroner's Court. The Court is given power to hold inquests into reportable deaths, the disappearance of any person from within the State or of any person ordinarily resident in the State, a fire or accident that causes injury to any person or property, or any other event as required by other legislation. Specifically, the Court must hold an inquest into a death in custody. Conversely, the Court is prohibited from commencing or proceeding with an inquest, the subject matter of which has resulted in criminal charges being laid against any person, until the criminal proceedings have been disposed of, withdrawn or permanently stayed.

Both the State Coroner and the Coroner's Court are given extensive powers of inquiry. These powers are generally consistent with the powers granted to the State Coroner under the current legislation and include the power to enter premises and remove evidence, to examine and copy documents, to issue warrants for the removal of bodies and for exhumations, and the power to direct that post-mortems be conducted.

Part 4 of the Bill also provides the Coroner's Court with powers for the purpose of conducting inquests, including the issuing of summonses compelling witnesses to attend inquests or requiring the production of documents, the power to inspect, retain and copy documents, and the power to require a person to give evidence on oath or affirmation. The informal inquisitorial nature of coronial inquiries is maintained. The Court is not bound by the rules of evidence and may inform itself on any matter as it thinks fit. The Court must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms. A person's right against self-incrimination is maintained.

Once an inquest has been completed, the Coroner's Court is required to hand down its findings as soon as practicable. As is currently the position with coronial inquests, the Court is prohibited from making any finding of civil or criminal liability. The Bill vests in the Court the power to make recommendations that might prevent or reduce the likelihood of a recurrence of an event similar to the event that was the subject of the inquest.

Inquests may be re-opened at any time or the Supreme Court may, on application of the Attorney-General or a person with sufficient interest in a finding, order that the finding be set aside.

Under Part 5 of the Bill, a person, on becoming aware of a reportable death, must notify the State Coroner or (except for a death in custody) a police officer of the reportable death. A new offence, that of failing to provide a coroner or police officer with information a person has about a reportable death, is created. This is to ensure all relevant information about a death is provided to a coroner or police officer in a timely manner.

Part 6 of the Bill contains miscellaneous provisions, some of which repeat equivalent provisions in the current legislation, while some are new. The State Coroner may now exercise any of the powers granted under the legislation for the purpose of assisting a coroner of another State or Territory to conduct an inquiry or inquest under that State or Territory's coronial legislation. Already, the Victorian, New South Wales and Western Australian legislation contain equivalent provisions that will enable assistance to be rendered to a coroner in South Australia. The South Australian legislation will reciprocate this benefit.

The Bill also ensures that information about persons obtained in the course of administering the legislation is protected from improper disclosure while, at the same time, ensuring the openness of the coronial jurisdiction. To assist the State Coroner in injury and death prevention, the State Coroner is given power to provide to persons or bodies information derived from the Court's records or other sources for research, education or public-policy development.

A number of transitional provisions and consequential amendments to State legislation will be necessary. These provisions are contained in the Schedule of the Bill.

I commend this Bill to the House.

Explanation of clauses

This is a Bill for an Act to provide for the State Coroner and other coroners and to establish the Coroner's Court. The new Act will replace the *Coroners Act 1975* (the repealed Act) which is to be repealed (*see the Schedule*).

Part 1: Preliminary

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause contains the definitions of words and phrases used in the Bill. In particular, a coroner is defined to mean the State Coroner, a Deputy State Coroner or any other coroner appointed under proposed Part 2.

The Coroner's Court must hold an inquest to ascertain the cause or circumstances of a death in custody (*see clause 21*). A death in custody is a death of a person where there is reason to believe that the death occurred, or the cause of death, or a possible cause of death, arose, or may have arisen, while the person—

(a) was being detained in any place within the State under any Act or law, including an Act or law providing for home detention; or

(b) was in the process of being apprehended or held—

- at any place (whether within or outside the State) by a person authorised to do so under any Act or law of the State; or
- at any place within the State—by a person authorised to do so under the law of any other jurisdiction; or

(c) was evading apprehension by a person referred to in paragraph *(b)*; or

(d) was escaping or attempting to escape from any place or person referred to in paragraph *(a)* or *(b)*.

The Coroner's Court may hold an inquest to ascertain the cause or circumstances of a reportable death (*see clause 21*). A reportable death is the State death of a person—

(a) by unexpected, unnatural, unusual, violent or unknown cause; or

(b) on an aircraft during a flight, or on a vessel during a voyage; or

(c) in custody; or

(d) that occurs during or as a result, or within 24 hours, of the carrying out of a surgical procedure or an invasive medical or diagnostic procedure, or the administration of an anaesthetic for the purposes of carrying out such a procedure (not being a procedure specified by the regulations to be a procedure to which this paragraph does not apply); or

(e) that occurs at a place other than a hospital but within 24 hours of the person having been discharged from a hospital after being an in-patient of the hospital or the person having sought emergency treatment at a hospital; or

(f) where the person was, at the time of death—

- a protected person within the meaning of the *Aged and Infirm Persons' Property Act 1940* or the *Guardianship and Administration Act 1993*; or
- in the custody or under the guardianship of the Minister under the *Children's Protection Act 1993*; or
- a patient in an approved treatment centre under the *Mental Health Act 1993*; or
- a resident of a licensed supported residential facility under the *Supported Residential Facilities Act 1992*; or
- accommodated in a hospital or other treatment facility for the purposes of being treated for mental illness or drug addiction; or

(g) that occurs in the course or as a result, or within 24 hours, of the person receiving medical treatment to which consent has been given under Part 5 of the *Guardianship and Administration Act 1993*; or

(h) where no certificate as to the cause of death has been given to the Registrar of Births, Deaths and Marriages; or

(i) that occurs in prescribed circumstances.

Part 2: Administration

Clause 4: Appointment of State Coroner

There will be a State Coroner (who will be a stipendiary magistrate) appointed by the Governor for a term of 7 years.

Clause 5: Magistrates to be Deputy State Coroners

Each Magistrate is a Deputy State Coroner for the purposes of the proposed Act.

Clause 6: Appointment of coroners

The Governor may appoint a legal practitioner of at least 5 years standing to be a coroner.

Clause 7: Functions of State Coroner

The State Coroner has the following functions:

· to administer the Coroner's Court;
· to oversee and co-ordinate coronial services in the State;
· to perform such other functions as are conferred on the State Coroner by or under this proposed new Act or any other Act.

In the absence of the State Coroner from official duties, responsibility for performance of the State Coroner's functions during that absence will devolve on a Deputy State Coroner nominated by the Attorney-General.

Clause 8: Delegation of State Coroner's administrative functions and powers

The State Coroner may delegate any of the State Coroner's administrative functions or powers (other than the power to delegate) under this measure or some other measure to another coroner, the principal administrative officer of the Coroner's Court, or any other suitable person.

Clause 9: Appointment of investigators

All police officers are investigators for the purposes of the proposed Act (*see definition of investigator in clause 3*). The Attorney-General may also appoint a person to be an investigator for the purposes of the proposed Act.

Part 3: Coroner's Court

Division 1—Coroner's Court and its staff

Clause 10: Establishment of Court

The Coroner's Court of South Australia is established.

Clause 11: Court of record

The Coroner's Court is a court of record.

Clause 12: Seal

The Coroner's Court will have such seals as are necessary for the transaction of its business and a document apparently sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.

Clause 13: Jurisdiction of Court

The jurisdiction of the Coroner's Court is to hold inquests in order to ascertain the cause or circumstances of the events prescribed under this proposed Act or any other Act.

Clause 14: Constitution of Court

The Coroner's Court is to be constituted of a coroner. The Court may, at any one time, be separately constituted of a coroner for the holding of a number of separate inquests and if the coroner constituting the Court for the purposes of any proceedings dies or is for any other reason unable to continue with the proceedings, the Court constituted of another coroner may complete the proceedings.

Clause 15: Administrative and ancillary staff

The Coroner's Court's administrative and ancillary staff will consist of any legal practitioner appointed to assist the Court as counsel and any other persons appointed to the non-judicial staff of the Court and will be appointed under the *Courts Administration Act 1993*.

Clause 16: Responsibilities of staff

A member of the administrative or ancillary staff of the Coroner's Court is responsible to the State Coroner (through any properly constituted administrative superior) for the proper and efficient discharge of his or her duties.

Division 2—Practice and procedure of Coroner's Court

Clause 17: Time and place of sittings

The Coroner's Court may sit at any time at any place and will sit at such times and places as the State Coroner may direct.

Clause 18: Adjournment from time to time and place to place

The Coroner's Court may adjourn proceedings from time to time and from place to place, adjourn proceedings to a time and place to be fixed, or order the transfer of proceedings from place to place.

Clause 19: Inquests to be open

Subject to Part 8 of the *Evidence Act 1929* or any other Act, inquests held by the Coroner's Court must be open to the public. However, the Court may also exercise the powers conferred on the Court under Part 8 of that Act relating to clearing courts and suppressing publication of evidence if the Court considers it desirable to do so in the interest of national security.

Clause 20: Right of appearance and taking evidence

The following persons are entitled to appear personally or by counsel in proceedings before the Coroner's Court:

· the Attorney-General;
· any person who, in the opinion of the Court, has a sufficient interest in the subject or result of the proceedings.

A person appearing before the Court may examine and cross-examine any witness testifying in the proceedings.

Subclauses (3) to (6) are substantially the same as section 104(4) to (6) of the *Summary Procedure Act 1921*. These subclauses provide that the Court may accept evidence in the proceedings from a witness by affidavit or by written statement verified by declaration in the form prescribed by the rules. However, if the witness is a child under the age of 12 years or a person who is illiterate or suffers from an intellectual disability, the witness's statement may be in the form of a written statement taken down by a coroner or an investigator at an interview with the witness and verified by the coroner or investigator, by declaration in the form prescribed by the rules, as an accurate record of the witness's oral statement. The Court may require a person who has given evidence by affidavit or written statement to attend before the Court for the purposes of examination and cross-examination. It is an offence punishable by imprisonment for 2 years if—

· a written statement made by a person under this clause is false or misleading in a material particular; and
· the person knew that the statement was false or misleading.

Part 4: Inquests

Clause 21: Holding of inquests by Court

The Coroner's Court must hold an inquest to ascertain the cause or circumstances of the following events:

· a death in custody (*as defined in clause 3*);
· if the State Coroner considers it necessary or desirable to do so, or the Attorney-General so directs—
  · any other reportable death; or
  · the disappearance from any place of a person ordinarily resident in the State; or
  · the disappearance from, or within, the State of any person; or
  · a fire or accident that causes injury to person or property;
· any other event if so required under some other Act.

However, the Court may not commence or proceed further with an inquest if a person has been charged in criminal proceedings with causing the event that is, or is to be, the subject of the inquest, until the criminal proceedings have been disposed of or withdrawn.

An inquest may be held to ascertain the cause or circumstances of more than one event.

Clause 22: Power of inquiry

The State Coroner may exercise the powers set out in this clause for the purposes of determining whether or not it is necessary or desirable to hold an inquest.

The Coroner's Court may exercise the powers set out in this clause for the purposes of an inquest.

The powers are—

(1) to enter at any time and by force (if necessary) any premises in which the State Coroner or Court reasonably believes there is the body of a dead person and view the body;
(2) to enter at any time and by force (if necessary) any premises and inspect and remove anything in or on the premises;
(3) to take photographs, films, audio, video or other recordings;
(4) to examine, copy or take extracts from any records or documents;
(5) to issue a warrant for the removal of the body of a dead person to a specified place;
(6) to issue a warrant for the exhumation of the body, or retrieval of the ashes, of a dead person (an exhumation warrant);
(7) to direct a medical practitioner who is a pathologist, or some other person or body considered by the State Coroner or the Court to be suitably qualified, to perform or to cause to be performed, as the case may require, a post-mortem examination and any other examinations or tests consequent on the post-mortem examination.

An exhumation warrant of the State Coroner may only be issued with the approval of the Attorney-General.

An investigator may exercise the first 4 powers listed if directed to do so by the State Coroner or the Coroner's Court for the purposes referred to therein and, in doing so, must comply with any directions given by the State Coroner or the Court for the purpose.

A person who hinders or obstructs a person exercising a power or executing a warrant under this section or any assistant accompanying such a person or who fails to comply with a direction given by such a person under this clause is—

- in the case of hindering or obstructing, or failing to comply with a direction of, the Court—guilty of a contempt of the Court;
- in any other case—guilty of an offence and liable to a penalty not exceeding $10 000.

Clause 23: Proceedings on inquests

The Coroner's Court may, for the purposes of an inquest—

- by summons, require the appearance before the inquest of a person or the production of relevant records or documents; or
- inspect records or documents produced before it, retain them for a reasonable period and make copies of the records or documents or their contents; or
- require a person to make an oath or affirmation to answer truthfully questions put by the Court or by a person appearing before the Court; or
- require a person appearing before the Court to answer questions put by the Court or by a person appearing before the Court.

If a person fails without reasonable excuse to comply with a summons to appear or there are grounds for believing that, if such a summons were issued, a person would not comply with it, the Court may issue a warrant to have the person arrested and brought before the Court.

If a person who is in custody has been summoned to appear before the Court, the manager of the place in which the person is being detained must cause the person to be brought to the Court as required by the summons.

A person commits a contempt of the Court if the person—

- fails, without reasonable excuse, to comply with a summons issued to appear, or to produce records or documents, before the Court; or
- having been served with a summons to produce a written statement of the contents of a record or document in the English language fails, without reasonable excuse, to comply with the summons or produces a statement that he or she knows, or ought to know, is false or misleading in a material particular; or
- refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Court; or
- refuses to obey a lawful direction of the Court; or
- misbehaves before the Court, wilfully insults the Court or interrupts the proceedings of the Court.

A person is not, however, required to answer a question, or to produce a record or document, if

- the answer to the question or the contents of the record or document would tend to incriminate the person of an offence; or
- answering the question or producing the record or document would result in a breach of legal professional privilege.

Clause 24: Principles governing inquests

The Coroner's Court, in holding an inquest, is not bound by the rules of evidence and may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms.

Clause 25: Findings on inquests

The Coroner's Court must give written findings as to the cause and circumstances of the event the subject of an inquest. A copy of the findings must be forwarded to the Attorney-General. The Court may add to its findings recommendation of the Court.

The Court must not make any finding, or suggestion, of criminal or civil liability on an inquest.

Clause 26: Re-opening of inquests

The Coroner's Court may re-open an inquest at any time and must do so if the Attorney-General so directs and, in the event that an inquest is re-opened, may do one or more of the following:

- confirm any previous finding;
- set aside any previous finding;
- make a fresh finding that appears justified by the evidence.

Clause 27: Application to set aside findings made on inquests

The Supreme Court may, on application (made within 1 month after the finding has been given) by the Attorney-General or a person who has a sufficient interest in a finding made on an inquest, order that the finding be set aside. A finding will not be set aside unless the Supreme Court is of the opinion—

- that the finding is against the evidence or the weight of the evidence adduced before the Coroner's Court; or
- that it is desirable that the finding be set aside because an irregularity has occurred in the proceedings, insufficient inquiry has been made or because of new evidence.

The Supreme Court may (in addition to, or instead of, making such an order) do one or more of the following:

- order that the inquest be re-opened, or that a fresh inquest be held;
- substitute any finding that appears justified;
- make such incidental or ancillary orders (including orders as to costs) as it considers necessary or desirable in the circumstances of the case.

Part 5: Reporting of deaths

Clause 28: Reporting of deaths

A person is under an obligation to, immediately after becoming aware of a death that is or may be a reportable death, notify the State Coroner or (except in the case of a death in custody) a police officer of the death, unless the person believes on reasonable grounds that the death has already been reported, or that the State Coroner is otherwise aware of the death. The penalty for failing to report is a fine of up to $10 000 or imprisonment for 2 years.

The person notifying must—

- give the State Coroner or police officer any information that the person has in relation to the death; and
- if the person is a medical practitioner who was responsible for the medical care of the dead person prior to death or who examined the body of the person after death—give his or her opinion as to the cause of death.

The penalty for failing to provide such information is a fine of up to $5 000.

On being notified of a death under this clause, a police officer must notify the State Coroner immediately of the death and of any information that the police officer has, or has been given, in relation to the matter.

Clause 29: Finding to be made as to cause of notified reportable death

If the State Coroner is notified under this measure of a reportable death, a finding as to the cause of the death must be made by the Coroner's Court, if an inquest is held, or, in any other case, by the State Coroner.

Part 6: Miscellaneous

Clause 30: Order for removal of body for interstate inquest

If the State Coroner has reasonable grounds to believe that an inquest will be held in another State or a Territory of the Commonwealth into the death outside the State of a person whose body is within the State, he or she may issue a warrant for the removal of the body to that other State or Territory.

Clause 31: State Coroner or Court may provide assistance to coroners elsewhere

Even if there is no jurisdiction under the Bill for an inquest to be held into a particular event, the State Coroner or the Coroner's Court may exercise their powers for the purpose of assisting a coroner of another State or a Territory of the Commonwealth to conduct an investigation, inquiry or inquest under the law of that State or Territory into the event.

Clause 32: Authorisation for disposal of human remains

If a reportable death occurs and the body of the dead person is within the State, the body is under the exclusive control of the State Coroner until the State Coroner considers that the body is not further required for the purposes of an inquest into the person's death and issues an authorisation for the disposal of human remains in respect of the body.

The State Coroner may refrain from issuing an authorisation for the disposal of human remains in respect of a body until any dispute as to who may be entitled at law to possession of the body for the purposes of its disposal is resolved.

Clause 33: Immunities

A coroner or other person exercising the jurisdiction of the Coroner's Court has the same privileges and immunities from civil liability as a Judge of the Supreme Court.

A coroner, any other member of the administrative or ancillary staff of the Coroner's Court, an investigator or a person assisting an investigator incurs no civil or criminal liability for an honest act or omission in carrying out or exercising, or purportedly carrying out or exercising, official functions or powers. Instead, any civil liability that would have attached to such a person attaches to the Crown.

Clause 34: Confidentiality

A person must not divulge information about a person obtained (whether by the person divulging the information or by some other person) in the course of the administration of this measure, except—

- where the information is publicly known; or
- as required or authorised by this measure or any other Act or law; or
- as reasonably required in connection with the administration of this measure or any other Act; or
- for the purposes of legal proceedings arising out of the administration of this measure; or
- to a government agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or
- with the consent of the person to whom the information relates.

The penalty for such an offence is a fine of up to $10 000.

Clause 35: Coroners may not be called as witnesses

Regardless of whatever else is contained in this measure, a coroner cannot be called to give evidence before a court or tribunal about anything coming to his or her knowledge in the course of the administration of this measure. This provision does not, however, apply in relation to proceedings against a coroner for an offence.

Clause 36: Punishment of contempts

The Coroner's Court may punish a contempt in the same way as the Magistrates Court, namely—

- it may impose a fine not exceeding $10 000;
- it may commit to prison for a specified term, not exceeding 2 years, or until the contempt is purged.

Clause 37: Accessibility of evidence etc

The State Coroner must, on application by a member of the public, allow the applicant to inspect or obtain a copy of any of the following:

- any process relating to proceedings and forming part of the records of the Coroner's Court;
- a transcript of evidence taken by the Court in any proceedings;
- any documentary material admitted into evidence in any proceedings;
- a transcript of the written findings and any recommendations of the Court;
- an order made by the Court.

However, subclause (2) provides that a member of the public may inspect or obtain a copy of the following material only with the permission of the State Coroner and subject to such conditions as the State coroner thinks appropriate:

- material that was not taken or received in open court;
- material that the Court has suppressed from publication;
- a photograph, slide, film, video tape, audio tape or other form of recording from which a visual image or sound can be produced;
- material of a class prescribed by the regulations.

The State Coroner may charge a fee, fixed by regulation, for inspection or copying of material.

Clause 38: Provision of information derived from Court records etc

The State Coroner may (subject to such conditions as he or she thinks fit), for purposes related to research, education or public policy development, or for any other sociological purpose, provide a person or body with information derived from the records of the Coroner's Court or from any other material to which the State Coroner may give members of the public access pursuant to this measure.

Clause 39: Miscellaneous provisions relating to legal process

Any process of the Coroner's Court may be issued, served or executed on a Sunday as well as any other day and the validity of a process is not affected by the fact that the person who issued it dies or ceases to hold office.

Clause 40: Service

If it is not practicable to serve any process, notice or other document relating to proceedings in the Coroner's Court in the manner otherwise prescribed or contemplated by law, the Court may, by order provide for service by post or make any other provision that may be necessary or desirable for service.

Clause 41: Rules of Court

Rules of the Coroner's Court may be made by the State Coroner.

Clause 42: Regulations

The Governor may make regulations for the purposes contemplated by this measure.

Schedule: Related amendments, repeal and transitional provisions

The Schedule contains related amendments to the following Acts and statutory instruments:

- Births, Deaths and Marriages Registration Act 1996
- Births, Deaths and Marriages Regulations 1996
- Correctional Services Act 1982
- Courts Administration Act 1993
- Cremation Act 2000
- Evidence Act 1929
- Freedom of Information Act 1991
- Harbors and Navigation Act 1993
- Juries Act 1927
- Local Government (Cemetery) Regulations 1995
- Road Traffic Act 1961
- Summary Offences Act 1953
- Transplantation and Anatomy Act 1983

The *Coroners Act 1975* is repealed and necessary transitional arrangements are put in place.

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

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly disagreed to the amendments made by the Legislative Council for the reason indicated in the following schedule:

No. 1. Page 3, lines 10 to 20 (clause 3)—Leave out subclause (1) and insert:

(1) The objects of this Act are, consistently with the principle of the Executive Government's responsibility to Parliament—

(a) to promote openness in government and the accountability of Ministers of the Crown and other government agencies and thereby to enhance respect for the law and further the good government of the State; and

(b) to facilitate more effective participation by members of the public in the processes involved in the making and administration of laws and policies.

(1a) The means by which it is intended to achieve these objects areas follows:

(a) ensuring that information concerning the operations of government (including, in particular, information concerning the rules and practices followed by government in its dealings with members of the public) is readily available to Members of Parliament and members of the public; and

(b) conferring on Members of Parliament and each member of the public a legally enforceable right to be given access to documents held by government, subject only to such restrictions as are consistent with the public interest and the preservation of personal privacy; and

(c) enabling each member of the public to apply for the amendment of such government records concerning his or her personal affairs as are incomplete, incorrect, out-of-date or misleading.

No. 2. Page 3, line 27 (clause 3)—Leave out "object" and insert: "objects"

No. 3. Page 3, line 34 (clause 3)—After "assists" insert: Members of Parliament and

No. 4. Page 4, lines 19 to 21 (clause 4)—Leave out paragraph (g).

No. 5. Page 7 (clause 6)—After line 31 insert the following:

(15a) In publishing reasons for a determination, a relevant review authority may comment on any unreasonable, frivolous or vexatious conduct by the applicant or the agency.

No. 6. Page 8, lines 7 to 11 (clause 6)—Leave out subclause (1) and insert:

(1) An agency that is aggrieved by a determination made on a review under Division 1 may, by leave of the District Court, appeal against the determination to the District Court on a question of law.

(1a) A person (other than an agency)—

(a) who is aggrieved by a determination of an agency following an internal review; or

(b) who is aggrieved by a determination that is not subject to internal review; or

(c) who is aggrieved by a determination made on a review under Division 1,

may appeal against the determination to the District Court.

No. 7. Page 8 (clause 6)—After line 15 insert the following:

(2a) Where an application for review is made under Division 1, an appeal cannot be commenced until that application is decided and the commencement of an appeal to the District Court bars any right to apply for a review under Division 1.

No. 8. Page 8, lines 16 and 17 (clause 6)—Leave out subclause (3) and insert:

(3) The following are parties to proceedings under this section:

(a) the agency;

(b) in the case of an appeal against a determination of an agency following an internal review or a determination made on a review under Division ll—the applicant for the review;

(c) in the case of an appeal against a determination that has not been the subject of a review—the applicant for the determination.

No. 9. Page 8, lines 28 and 29 (clause 6)—Leave out subclause (6) and insert:

(6) In proceedings under this section—

(a) in the case of proceedings commenced by an agency—the Court must order that the agency pay the other party's reasonable costs; or

(b) in any other case—the Court must not make an order requiring a party to pay any costs of an agency unless the Court is satisfied that the party acted unreasonably, frivolously or vexatiously in the bringing or conduct of the proceedings.

No. 10. Page 9 (clause 6)—After line 11 insert the following:

Disciplinary actions

42. If, at the completion of any proceedings under this Division, the District Court is of the opinion that there is evidence that a person, being an officer of an agency, has been guilty of a breach of duty or of misconduct in the administration of this Act and that the evidence is, in all the circumstances, of sufficient force to justify it doing so, the Court may bring the evidence to the notice of—

(a) if the person is the principal officer of a State Government agency—the responsible Minister; or

(b) if the person is the principal officer of an agency other than a State Government agency—the agency; or

(c) if the person is an officer of an agency but not the principal officer of the agency—the principal officer of that agency.

No. 11. Page 9, lines 14 and 15 (clause 8)—Leave out this clause and insert:

Amendment of s. 53—Fees and charges

8. Section 53 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (2);

(b) by inserting in subsection (2) "reasonable administrative" after "reflect the";

(c) by inserting after subsection (2) the following subsections:

(2aa) A fee or charge can only be required by an agency under this Act in respect of the costs to the agency of finding, sorting, compiling and copying documents necessary for the proper exercise of a function under this Act and undertaking any consultations required by this Act in relation to the exercise of that function.;

(2ab) No fee or charge is payable under this Act by a Member of Parliament in respect of an application under Part 3 for access to documents.

No. 12. Page 10, lines 14 to 17 (clause 11)—Leave out paragraph (g). No. 13. Page 10, lines 21 to 25 (clause 11)—Leave out paragraph (i). No. 14. Page 11, lines 18 to 23 (clause 11)—Leave out paragraph (k). No. 15. Page 11—After line 23 insert new clause as follows:

Amendment of Sched. 2

11A. Schedule 2 of the principal Act is amended by inserting after paragraph (f) the following paragraph:

(g) the Essential Services Commission in relation to—

(i) information gained under Part 5 of the Independent Industry Regulator Act 1999 that would, if it were gained under Part 5 of the Essential Services Commission Act 2002, be capable of being classified by the Commission as being confidential under section 30(1) of that Act; and

(ii) information gained under Part 5 of the Essential Services Commission Act 2002 that is classified by the Commission as being confidential under section 30(1) of that Act;

No. 16. Page 11, lines 33 to 40 (clause 12)—Leave out subclause (3).

ADJOURNMENT

At 5.20 p.m. the council adjourned until Tuesday 13 May at 2.15 p.m.