LEGISLATIVE COUNCIL

Thursday 15 May 2003

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

STATUES AMENDMENT (EQUAL SUPERANNUATION ENTITLEMENTS FOR SAME SEX COUPLES) BILL

A petition signed by 35 residents of South Australia, concerning the Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Bill and praying that this council will support a motion for the Social Development Committee to investigate the bill and implications for the bill arising from the Attorney-General's departmental discussion paper on removing legislative discrimination against same sex couples, was presented by the Hon. A.J. Redford.

Petition received.

GENETICALLY MODIFIED FOOD

A petition signed by 4040 residents of South Australia, concerning genetically modified food and praying that the council will:

1. impose an immediate ban on environmental release and crop trials of genetically modified plants;

2. impose a moratorium for five years on the introduction of genetically modified products into South Australia; and

3. legislate for the compulsory labelling of genetically modified foods and food products containing genetically modified ingredients,

was presented by the Hon. G.E. Gago.

Petition received.

VOLUNTARY EUTHANASIA

A petition signed by 20 residents of South Australia, concerning voluntary euthanasia and praying that the council will reject the so-called Dignity in Dying (Voluntary Euthanasia) Bill, move to ensure that all medical staff in all hospitals receive proper training in palliative care and move to ensure adequate funding for palliative care for terminally ill patients, was presented by the Hon. T.J. Stephens.

Petition received

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions be distributed and printed in *Hansard*: Nos 199 and 234.

WOMAD

199. **The Hon. DIANA LAIDLAW:**

1. (a) What is the budget provided in forward estimates for each of the Womad events for the next five years?

(b) To which agency has the funding been allocated?

2. Do the budget estimates provide for the full estimated costs of staging the event each year to 2006?

3. (a) How many groups/acts are performing in the forthcoming 2003 Womad event?

(b) Of this number, what is the number and name of each South Australian based group/act?

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. (a&b) Under the terms of a memorandum of understanding signed in the United Kingdom on 17 June 2002, the future of the Womad event has been secured for Adelaide until 2009. From 2004, the Womad event will become annual in Adelaide, as it is in England, Spain, Italy and Greece. The State Government's financial commitment is to be increased to $500 000 per annum from 2004 to 2009 inclusive and, in return, the UK-based Womad Ltd (which grants licences for the Womad events held throughout the world) will bear all of the risk of the event from 2004 to 2009.

Government funding for Womad will be provided through Arts SA and Australian Major Events.

Forward estimates figures are currently available for the next four years only, ie up to the year 2006-07.

The Arts SA budget provision in forward estimates for each of the Womad events for the next four years is:

- 2003-04 $460 000
- 2004-05 $310 000
- 2005-06 $460 000
- 2006-07 $310 000

The balance of annual government funding for Womad will be provided through Health Promotions through the Arts and Australian Major Events.

Womad is a key event in South Australia, with a strong national and international profile. The economic benefit to the State of each WOMAD event is estimated to be about $3.625 million, with a multiplier effect giving a second-round benefit of over $9.0 million.

2. The former Minister for the Arts would be aware that, for all major events, the amount of money provided by government is not intended to provide for the full estimated costs of staging the event.

Each Womad event has a total budget of approximately $3 million. Womad is expected to generate the difference through its box office income and sponsorship support. As noted in the answer to the previous question, from 2004, any shortfalls in revenue will be the responsibility of Womad Ltd.

3. (a) The 2003 Womad event featured 47 acts/groups. Twenty-three of these were international groups and 24 were Australian.

(b) Twelve of these groups/acts were South Australian-based. They were:

- Anangu Pitjantjatjara Inma
- The Rope Story sand sculpture project
- Australian Dance Theatre
- Cirkidz
- Gamelan Sekar Laras
- Kuarna-Karl Telfer
- Choir of the Centre for Aboriginal Studies in Music
- Kneehigh Puppeteers
- Liam Gerner
- Papa Kwasi and the Iriehights
- The Salsa workshop leaders
- Soul Capeoira.

In a festival atmosphere renowned for its family friendliness, Womad hosted, in association with Carclew Youth Arts Centre, a program of free activities for children and youth. At least 15 South Australian-based individuals led these workshops and they were supported by 10 young assistants – all South Australians.

In addition, four of the twelve artists who appeared at the late night WoZone WOMADelaide Club, held at the University of Adelaide, were South Australian-based.

It should be noted that, as well as providing employment for a significant number of artists, Womad employed over 200 technical crew and support staff, the majority of whom were South Australian.

ADELAIDE FESTIVAL

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

1. How much is the 2003 Adelaide Cabaret Festival expected to cost?

2. What percentage of tickets need to be sold for the festival to break even?

3. What specific criteria is used to set admission prices for performances?

4. (a) Is the festival being subsidised by the state government; and

(b) If so, by how much?

5. (a) Who are currently members of the Adelaide Cabaret Festival Advisory Committee?

(b) What are their professional backgrounds?

(c) How much is each member paid for their work as committee members?

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. The 2003 Adelaide Cabaret Festival, to be held from 6 to 22 June, will have a total budget of $1.65 million.

2. The Cabaret Festival has budgeted for 55 per cent of all tickets to be sold.

3. Ticket prices are based on community access, audience development and growth, costs, and commercial and marketplace standards.

The Festival Centre offers a range of ticket prices across the Cabaret Festival performances and in its different venues, in order to attract new audiences. A number of free and low cost tickets are also provided to disadvantaged groups in the community as a social justice initiative.

Tickets for Cabaret Festival performances range in price from $10 for the late night bands up to $70 (for *Testimony*, a gala tribute to the jazz player Charlie Parker, to be presented as the Festival Centre's 30th birthday celebration show). These prices include the BASS booking fee.

The 'Bring a Friend Free on Wednesday' ticket offer, which proved popular in the 2002 Cabaret Festival and was very successful in bringing many people to the Festival Theatre for the very first time, will again be offered in the 2003 Cabaret Festival.

Free Cabaret Festival events will include a photographic display titled *The Intimate Art of Cabaret* and a display mounted by the Performing Arts Collection of South Australia. The latter display will highlight the Vaudeville music hall tradition of revue, sketches, comedy, songs and satire and will feature early 20th century magicians' props, ventriloquist dolls, posters, costumes, programs and autograph books.

Masterclasses, to be presented in The Space, will enable audience members to observe selected performers receiving tips on their stagecraft, lyrics, direction and other aspects of cabaret performance from experts including the Cabaret Festival's Patron, Nancye Hayes. Tickets for this series of masterclasses will cost $15 each.

In a move aimed at introducing more young people to live theatre and entertainment at the Festival Theatre, discounts for Cabaret Festival performances are being offered to patrons under the age of 26, and school students can buy tickets at discounted prices for nominated performances.

A Classroom Cabaret program will offer an insight into cabaret production and performance techniques for teachers and students. Ticket prices for this initiative will be $5 per student. Teachers will be charged $22 for a forum with a visiting New York cabaret director.

In addition, cabaret performances for children—featuring shadow puppetry, a children's pop concert and traditional Japanese drumming—will be presented on the three weekends of the Cabaret Festival, as part of the Festival Centre's 'Something on Saturday' program for children aged 3 to 10 years. Tickets for these performances will cost $5.50 plus a BASS booking fee.

4. (a) and (b)

The previous State Government allocated payments of $500 000 per annum for three years to the Adelaide Festival Centre Trust to enable the Adelaide Cabaret Festival to be held annually until the year 2003-04.

5. (a) and (b)

Current members of the Adelaide Cabaret Festival Advisory Committee, and their professional backgrounds, are: Mr Frank Ford AM (Chair), SA committee member of the Australian Writers' Guild and Board member of the Independent Arts Foundation (and founder of the Adelaide Cabaret Festival); Ms Kate Brennan, chief executive officer, Adelaide Festival Centre Trust; Mr Renato Capoccia, graphic designer and restaurateur; Ms Nicky Downer, director Downer Koch Marketing, Chair of the Country Arts Trust and Board member of the SA Tourism Commission; Ms Lisa Fahey, senior manager, strategy and marketing, Bank SA; Mr Steve Mayhew, company manager Brink Productions; Mr Bill Stephens, proprietor of the School of Arts café, a Canberra cabaret venue.

(c) The members of this Advisory Committee receive no payment for their work on the committee.

WATER REGULATIONS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on water regulations made in the other place on 15 May by the Hon. John Hill (Minister for the River Murray).

PARLIAMENT HOUSE

The PRESIDENT: I refer to a question asked by the Hon. D.V. Laidlaw on Monday 12 May 2003 about the Joint Parliamentary Service rules and, in particular, those involving the catering division.

As stated in my initial response, the rules have evolved in this parliament to meet changing circumstances, as well as to address occupational, health and safety requirements, and to take into consideration the liquor licensing legislation. Staff, as well as members, are obliged to adhere to the rules. These rules are set out in the Members Handbook of which all members should have a copy; if they do not, they should advise the Clerk. Rule 15 of the catering division specifically relates to functions, as follows:

(a) only the presiding officers, deputy presiding officers and ministers may host a staff function in areas other than the Speaker's Dining Room. Due to staff limitation, major functions can only be held when parliament is not sitting;

(b) regardless of the maximum capacity of a room, a member may host a non-staff catering function for up to 50 people.

Members should be aware that the government provides an appropriation for the entire wages component of the catering and dining facilities and, because of the use made by ministers—of previous governments and the present government—in holding functions at Parliament House, as well as the growing budget shortfall, it has become necessary now to charge 130 per cent of the total cost (including the wages component) for any such function. However, excluding staff wages and administration expenses, the catering division is run like any other business.

The committee has always endeavoured to keep its prices at the break-even level. Earlier this year, it became necessary to increase the prices of meals purchased in-house in order to improve cash flows. From time to time, requests have been made by members to hold various functions, including wedding receptions, in this building, but the committee has taken the view—

The Hon. Diana Laidlaw: That wasn't my request!

The PRESIDENT: I thought we were keeping that a secret—that we are not a function centre but, primarily, the parliament. Because of work demands, it is justified that members are provided with in-house dining facilities. Based on this premise, the requirements of parliament take precedence over all other activities.

The Joint Parliamentary Service Committee has been appointed by the parliament to administer the catering division. It addresses many competing issues in arriving at the decisions that it makes. It therefore follows that our decisions may not always accord with members' wishes, but rest assured that we do take into consideration all aspects and receive advice accordingly.

QUESTION TIME

FREEDOM OF INFORMATION

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Administrative Services a question about freedom of information legislation.

Leave granted.

The Hon. R.I. LUCAS: As members know, for many months the opposition has been seeking information about budget cut details and a range of other issues under the

freedom of information legislation. Members may also be aware that section 39 of the Freedom of Information Act broadly allows the opportunity for an appeal to the Ombudsman if a minister or a department is refused access to information. If, after internal appeal, the request is rejected, the applicant has the opportunity of taking an appeal to the Ombudsman for the first independent test of whether or not the information should be released. Section 39 makes it clear that that application must be made within 30 days after the notice of the decision on the review of the determination, or within 30 days after the date of determination in certain other circumstances.

On 7 March, I received from the Minister for Administrative Services (Hon. Mr Weatherill), the minister in charge of freedom of information legislation, a denial of information under the Freedom of Information Act. In his letter and attachment the minister advised, as he is required under the freedom of information legislation, my rights of appeal. In his letter to me the minister in charge of freedom of information stated:

> Provided you have had an internal review, you can apply for investigation by the Ombudsman or Police Complaints Authority at any time.

No reference is made to the 30 day time restriction at all. I also received a rejection—these are all rejections, as members would imagine—on 21 March this year from the office of the Leader of the Government (I will not mention the officer's name) in this place, the Hon. Mr Holloway. Similarly, the minister's letter and attachment states:

> Provided you have had an internal review, you can apply for an investigation by the Ombudsman at any time.

On 10 January I received a letter from the Hon. Pat Conlon who, upon rejecting certain information, indicated in his letter and attachment:

> Provided you have had an internal review, you can apply for an investigation by the Ombudsman at any time.

Many other letters have referred to 'at any time' but, for a little variety, we received a letter on 9 May signed by the Minister for Environment and Conservation (Hon. John Hill), which states:

> There is no time limit provided in the Freedom of Information Act 1991 within which a review to the Ombudsman may be made.

I assume that many other applicants for freedom of information legislation would have received similar information from the minister in charge of freedom of information requests (Hon. Mr Weatherill) and other ministers of the Rann government. It is clear from that that some constituents and applicants will have been misled in relation to their appeal rights because, having been told by ministers of the Rann government that they can appeal at any time to the Ombudsman, if they go beyond the 30 days and make an application they may well find themselves in a position where they have not complied with the requirements of the freedom of information legislation.

A colleague of mine commented to me that it is either a deliberate campaign of misinformation by the minister in charge of freedom of information (minister Weatherill) and his colleagues to mislead people about their appeal rights, or an example of gross incompetence by the minister in charge of freedom of information and his ministerial colleagues. My questions to the minister are:

1. Will he confirm that he and other ministers of the Rann government have been misleading applicants under the freedom of information legislation about their appeal rights to the Ombudsman?

2. If he agrees that they have been misleading applicants, what action will he now take to ensure that the rights of those individuals have not been impacted in relation to their applications?

3. Does he agree that this has either been a deliberate campaign of misinformation by him and fellow ministerial colleagues to mislead people about their appeal rights or is it simply an example of gross incompetence by this minister and his ministerial colleagues?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply. However, I can confirm, having known him as long as I have, that the minister is a very honest and open person who takes freedom of information legislation very seriously.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: It is not incompetence—

The Hon. R.I. Lucas: It is deliberate then.

The Hon. T.G. ROBERTS: I will allow him to answer the question but, knowing him as I do, there is nothing in this. Perhaps it is a case of over-reaction, but we will wait and see when the replies come back.

The Hon. A.J. REDFORD: As a supplementary question, will the minister also give the council an assurance that those people who have been misled by those statements will not be disadvantaged if they seek a review after the 30 day period?

The Hon. T.G. ROBERTS: I will refer that question to the minister in another place and bring back a reply.

The Hon. J.F. STEFANI: As a further supplementary question: will the minister advise whether he has had any specific request in his portfolio area for freedom of information that may have been referred through the same process?

The Hon. T.G. ROBERTS: I will have to take that question on notice as well, as I am not in a position to give that information to the honourable member at the moment.

CRIME PREVENTION

The Hon. R.D. LAWSON: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Justice, a question about crime prevention.

Leave granted.

The Hon. R.D. LAWSON: Within the Attorney-General's Department there has for many years been a dedicated crime prevention unit, which has performed excellent service for the state. The aim of the crime prevention unit is to prevent or reduce crime, and its role is to encourage, support and make it possible for communities to prevent crime and contribute to a safer society. A number of projects are referred to in the latest annual report of the Attorney-General's Department on the activities of the crime prevention unit. They include programs such as the residential break and enter project, crime prevention through environmental design, some programs designed to prevent domestic violence, a program entitled 'Young people and crime prevention', and the Retail Industry Prevention Crime Prevention Advisory Committee. Graffiti prevention has been an important initiative sponsored through the crime prevention unit, and there have also been school programs, an

indigenous youth mentoring scheme and early intervention project, a Coober Pedy alcohol strategy and the list goes on.

The report also mentions the local crime prevention program, and it notes that 21 councils have been funded for the period 2001-04. It was after the period covered by this report that those programs were defunded by this government. The Minister for Justice has commissioned Mr Des Semple to undertake a review of the crime prevention unit, although no public announcement to that effect has been made. Neither has any announcement been made about the future of the crime prevention unit. My questions are:

1. Has the report of the review conducted by Mr Semple been received?

2. When was it received?

3. What action does the government intend to take in relation to the report?

4. Will the minister provide assurance that the funding and activities of the crime prevention unit will be maintained in the future?

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

DROUGHT RELIEF

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

Leave granted.

The Hon. CAROLINE SCHAEFER: On 15 October last year the minister made a ministerial statement in relation to the $5 million drought assistance package offered by the state Labor government. In that statement the minister said there would be cash grants of up to $10 000 to assist families in need and to provide for the most badly affected farmers to buy seed or stock for the next season. In a news release on 22 October last year the minister also stated:

> Domestic water supply grants of up to $2 000 for water carting costs are also available. This grant will be reduced from the $10 000 available for reseeding and restocking.

In reply to a question on 20 February, the minister said:

> Applications for grants of up to $10 000 close at the end of February. . . and applicants will be notified in late March of the grants they will receive.

On top of these measures, on 5 April this year, the Premier announced another $60 000 to assist land-holders in the Murray Mallee to rehabilitate the land degraded by wind erosion. According to the minister, applicants should have been notified some weeks ago of the grants they would receive. My questions are:

1. Will the minister now inform the council how many farmers, if any, have been informed as to whether they will receive those grants; and the amount of funds that have been directly distributed to farmers, first, to assist in reseeding and restocking, secondly, to assist in domestic water supply cartage costs and, thirdly, to assist land-holders to rehabilitate land in the Murray Mallee?

2. Will he confirm that, since there has been very little rain to date, many of these farmers would have received nothing because they would not be applying to reseed or restock at this stage?

3. Will he also confirm that, while there is money available for reseeding and restocking, there is no money available for water cartage to stock?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): What I can confirm is that the federal colleagues of the shadow minister have not supported the Murray Mallee farmers by way of exceptional circumstances assistance. Indeed, one need only read the papers of the past few days to understand what the Farmers Federation in this state thinks of the federal government in relation to its assistance to farmers. I think perhaps the honourable member would be better advised to talk to her federal colleagues and ask for some greater generosity from them. In relation to the—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: Well, there is not too much going to South Australia, let me tell you. In fact, if one looks at the figures provided by Warren Truss recently, I think that, out the 7 000 odd farm families receiving help across the country, certainly fewer than 100 of them have received assistance in this state. Between 1 and 2 per cent of the total farm families in the country have received that assistance, yet I do not think it would be fair to say that this state has been spared from the drought that has occurred in areas such as the Murray Mallee. I have consistently argued that the impact on farmers in that area is at least as serious as anywhere else in the country.

The honourable member raised a number of issues in her question in relation to the payments under the state government's $5 million drought package. I will take the question on notice and provide the details about how many applications have been accepted at this stage. However, I need to point out that, whereas the original closing date for applications was the end of February this year, at the request of the Farmers Federation and other members, including one of the honourable member's colleagues in the house, an extension was granted to extend the date for applications by a month. We said that we would like to have some indication about whether people would apply, but we would need an extension of time for the lodgement of details to support the case, and therefore we were only too willing to agree to that request.

In relation to the $1.5 million which was set aside for the provision of these $10 000 grants for individual farmers, I think more than $1 million of that would have been spent under the initial applications. When the Premier was at the Karoonda field days he announced that the government would have a second round. We called upon the rural counsellors in the districts in the state that are worst affected by drought to assist with those targeted applications. It was the government's intention that most if not all of that $1.5 million that was allocated would be spent.

The honourable member is quite correct in saying that those business support grants were essentially designed for reseeding and restocking. That was their main purpose and this is about the time of the year when that money will be most needed, and that was always the intention. When I announced the drought relief package, I made the point that the time of year when those farmers would be most feeling the pinch is now. At the end of last year there were no crops from which to receive income, but the big costs for farmers come with reseeding and restocking, which is what they do at this time of the year.

It is for that reason that I have just resubmitted an exceptional circumstances application for the Murray Mallee to the federal minister, hoping that the commonwealth will

at least extend its six-month interim assistance that it announced in December last year when it gave prima facie agreement to the application for the Murray Mallee area. We are hoping that it will extend that for a further six months so that those farmers will receive that income for the remainder of this year. Those farmers will receive $10 000 each from the $1.5 million state grant to help them restock and reseed.

The honourable member spoke about water. One of the issues that has been raised with the government is that some farms, particularly in the north-east pastoral areas, have had problems with water cartage for stock. Although it has been a difficult time for those farmers, it was the view of the Premier's drought task force (which, along with officers of my department, comprised largely community and farm leaders) that there should be one flat rate for farm assistance and, if farmers wished to use that money for water cartage, they could do so. However, given that the water cartage problems were immediate in that area, we announced that up to $2 000 of that $10 000 individual grant could be used for immediate domestic water cartage. I think that covers the honourable member's comments.

The honourable member asked about what has actually been transferred. That changes from day to day as further applications are received and approved. I will get an up-to-date figure for the honourable member and give her a response as soon as possible.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Can the minister tell us whether any farmers have actually got any money from the state government for drought relief?

The Hon. P. HOLLOWAY: Yes.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise the council whether he has received any representation from the Speaker of the house in relation to any farmer affected by the drought in the electorate of Hammond?

The Hon. P. HOLLOWAY: I have spoken to the member for Hammond on a number of occasions about the conditions in his electorate. The Premier and I visited farmers in that area and both of us stayed overnight with a farm family in the Murray-Mallee last year. In relation to all these measures, I have kept the member for Hammond informed, and the member for Hammond has corresponded with me on a number of occasions about individual constituents who have written to him and I have referred those applications on to the appropriate people in my department for response and assessment.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question concerning policies being considered by the Environment, Resources and Development Committee.

Leave granted.

The Hon. G.E. GAGO: As members may be aware, the Environment, Resources and Development Committee recently considered an aquaculture cost recovery policy that had been endorsed by the Minister for Agriculture, Food and Fisheries in accordance with sections 12 and 13 of the Aquaculture Act 2001. The ERD Committee has noted that several other policies will soon be referred for consideration and acceptance. My question is: can the minister provide an overview of the policies that will be considered by the ERD Committee, including their purpose and proposed implementation time frame?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her important question. I think all members should be interested in aquaculture. One need only read the *Australian* newspaper this morning to realise how important aquaculture is. The article in the *Australian* this morning was headed 'Overfishing reduces large species by 90 per cent. It is quite clear that the availability of fish for the table in future will depend more on aquaculture. As a state that is well set up for aquaculture, it is important that we take every opportunity to ensure that that development takes place in our state. It is an important question and I thank the member for it.

I am pleased to confirm that the aquaculture cost recovery policy was endorsed by the ERD Committee and has now come into effect. The formalisation of an aquaculture cost recovery policy will enable the government to more equitably apportion costs associated with management and regulation of the aquaculture industry to the appropriate sector or stakeholder. The aquaculture cost recovery policy is the first of the statutory policies to have been developed and put in place to support the Aquaculture Act 2001. Importantly, the Aquaculture Act allows for aquaculture policies to be made for any purpose directed towards securing the objects of the act.

Members will recall that the objects of the act include the promotion of ecologically sustainable marine and inland aquaculture, the maximisation of benefits to the community from the state's aquaculture resources and the efficient and effective regulation of the aquaculture industry. To this end a number of policies have been developed by my department, they being at various stages of the formal consultation process described in sections 12 and 13 of the Aquaculture Act.

The Eyre region (Lincoln sub-region) zone policy is currently before the ERD Committee, having been through a comprehensive development and consultation period. The formal consultation period for four policies, being leasing and licensing, tenure allocation, aquaculture animal health and South Australian shellfish quality assurance, closed on 14 April, and the Aquaculture Advisory Committee will provide me with advice on those policies following its meeting on 1 May. In addition, two further policies—environmental management and resource management—are currently available for public consultation until 13 June 2003. Copies of those policies can be obtained by contacting PIRSA Aquaculture or by visiting PIRSA's website.

These policies were advanced promptly following the commencement of the Aquaculture Act on 1 July 2002 and they form the foundation for management of sustainable aquaculture in South Australia. The policies will effectively prescribe provisions for the conditions of licences and leases, identify aquaculture zones and define offences under the Aquaculture Act. As a result, compliance with performance standards will be more easily defined and measured. This level of rigour will provide certainty for all stakeholders, while at the same time providing a clear management structure to ensure the future sustainability of aquaculture in South Australia.

PIRSA will continue to develop policies on a range of important aquaculture management issues, particularly as sound scientific information comes to hand regarding the

interaction between farm species and other marine animals, appropriate levels of aquaculture activities within a given area and other environmental factors. This work will be greatly assisted by research currently being undertaken by PIRSA, SARDI and other specialist research providers. I believe that the consultative process being undertaken and the scrutiny provided through the ERD Committee's involvement will see the South Australian aquaculture industry take its place beside other major primary producing sectors as the cornerstone of the state's economy for many years to come. I thank the honourable member for her question about this very important industry and I am pleased to be able to share with the council the very large number of policy developments that have been taking place since the act was proclaimed on 1 July last year.

DROUGHT

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a ministerial statement made by the Premier in the other place today.

HOUSING, MENTALLY ILL

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the minister representing the Minister for Social Justice a question about housing support for people with a mental illness.

Leave granted.

The Hon. KATE REYNOLDS: More than a quarter of a million South Australians are affected by mental illness each year. People with a severe and ongoing mental illness find it difficult to manage keeping themselves in stable housing. Their illness can mean that they are often not able to meet obligations to landlords, such as maintenance and paying rent, and they are liable to be suddenly absent for periods of time, making maintaining their occupancy difficult. The difficult and challenging behaviours and the substance abuse often associated with mental illness can sometimes lead to friction with neighbours, and people experiencing a period of illness frequently lack the stability or skills to negotiate themselves out of trouble when it does arise.

Mentally ill people are frequently rendered homeless and, because of the stress of trying to find accommodation or because they have nowhere else to go, they often end up in psychiatric hospital beds. Illness and unemployment generally mean that they have few assets and little if any cash, which further limits their housing options. The people themselves and their families and friends become distressed and anxious; landlords are put to extra expense and inconvenience; psychiatric beds are occupied by people who could be more appropriately housed elsewhere; and community mental health workers are tied up in a revolving door of rescue and rehousing.

The Supported Housing in the North Demonstration Project, established in 2001, set out not only to house people with a mental illness but to coordinate a range of services designed to keep them housed. The project required active collaboration between the Port Adelaide Central Mission's Metro Access Program, the Housing Trust, the North-Western Adelaide Mental Health Services with input from the DHS Supported Housing Unit, the Northern Region Consumer Advocacy Group and ROOFS Housing Association. Eighteen months later the project was evaluated and showed that participants changed housing one-sixth as often as they had before and that hospitalisation was reduced to one-twentieth. Clearly, it was a resounding success. My questions are:

1. Does the minister intend to support the replication of this project in other metropolitan, rural and regional areas? If so, in which areas and when? If not, why not?

2. Will the minister provide additional funds to support the replication of this project until such time as the cost savings can be identified, quantified and then reallocated to other areas of need? If so, when? If not, why not?

3. Will the minister take urgent action to address the lack of appropriate and supported housing for people with a mental illness who want to return home to the Mount Gambier region following discharge from psychiatric care in Adelaide? If so, what action and when and, if not, why not?

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

SEX SHOPS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the minister representing the Attorney-General questions about Adelaide sex shops and the sale and rental of X-rated videos and DVDs.

Leave granted.

The Hon. T.G. CAMERON: My office has recently been contacted by a constituent who has informed me that he has observed high school students purchasing X-rated videos from an Adelaide adult sex shop. Under current state law it is illegal to rent or sell X-rated videos to adults, never mind juveniles. I note that in March this year the South Australian Attorney-General (Hon. Michael Atkinson) tried to ban the public screening of an adult film that depicted an explicit and violent rape. In the same month on ABC radio he stated that X-rated films depicting adult consenting sex were not appropriate for South Australians to view. Yet we have a situation where schoolchildren have been clearly observed buying X-rated videos from a city store. I have been advised that thousands of these films are on public display across Adelaide. Apparently, videos and DVDs can be obtained featuring violent rape scenes, bestiality and paedophilia. I would have thought that the Attorney-General would be consistent in this matter: if we have a law, it should either be observed or changed. My questions are:

1. Considering the widespread flouting of the law with regard to the sale and rental of X-rated videos, are we to interpret this as a sign of acceptance by the Attorney-General?

2. How many adult sex shops in South Australia sell or rent X-rated videos?

3. How many have been prosecuted for selling X-rated videos over the past 12 months?

4. Are any police checks on adult sex shops currently undertaken to—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: —see whether they are complying with the law; if not, why not?

5. In view of the government's inaction on this issue, does it intend to change the law to reflect what is going on in our community?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important

questions to the Attorney-General in the other place and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise the council whether any raids have been conducted on sex shops to ascertain whether illicit material is being sold?

The Hon. T.G. ROBERTS: I will refer that question to the Attorney-General in the other place and bring back a reply.

WORKCOVER

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 Industrial Relations, a question about WorkCover.

Leave granted.

The Hon. A.J. REDFORD: Over the past month, the opposition has been deluged with leaks about the declining financial position of WorkCover. Yesterday, the position of WorkCover became increasingly critical. I have asked questions about WorkCover and to date—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: —I have not received any responses, other than inane interjections from the Hon. Bob Sneath. Those questions were first asked on 29 April; indeed, the government has broken yet another promise in not answering questions within the six sitting days that it promised prior to the election.

Under the WorkCover Act, the board is required to report to the minister on any matter relevant to the performance of WorkCover, and the minister can give directions to WorkCover; indeed, that has happened in the past. I understand that the minister is now seeking a change in the law that will give him greater powers, including the power to set levies. He also wants greater powers to direct and control WorkCover—presumably because his individual wisdom far exceeds the collective wisdom of the board. I have been informed that the minister has been meeting with the Chair of the WorkCover Board as much as four times a week (an extraordinary number of times since he was sworn in) in addition to having an observer on the board. In light of this, my questions are:

1. How many times and on what dates has the minister met with the Chair of WorkCover since he took office?

2. Has the minister given the Chair or the board any advice over the past 12 months? If so, what has been that advice?

3. Has the minister given any advice in writing? If so, will he table that advice?

4. Has the board, or its Chair or CEO, rejected any of the minister's advice? If so, what was the advice that was rejected and what were the reasons for its rejection?

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: He has just lost 300 million bucks, and we're a little concerned over here. My questions continue:

5. When can I expect answers to my earlier questions?

6. Will the minister comply with the six-day rule?

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

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise the council whether he has authorised or directed an actuarial report on the financial status of WorkCover at any time?

The Hon. T.G. ROBERTS: I will refer that important question to the minister in another place and bring back a reply.

FERAL OLIVES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question about feral olives.

Leave granted.

The Hon. J.S.L. Dawkins: He is the minister assisting.

The Hon. DIANA LAIDLAW: He is the minister assisting the minister, so perhaps the minister will be able to help me and not refer the question. Anyway, before getting to this matter, I admit that it was a close call today whether I asked this question on feral olives or one on the feral Speaker, but I see from the whip that there will be an opportunity on the Constitution (Gender Neutral Language) Bill for me to comment further on the Speaker. So, today I will just stick to feral olives.

The PRESIDENT: Order! The Hon. Ms Laidlaw is an experienced member of this council and she knows that she is breaching the standing orders and protocols. Normally, I would ask her to withdraw the remarks and reference to the Speaker in another place. I think that the honourable member should consider doing that.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: The Hon. Ms Laidlaw knows her responsibilities to the council. I ask her to withdraw her remarks in respect of the activities of the Speaker and, if she would, proceed with her question.

The Hon. DIANA LAIDLAW: I am to withdraw?

The PRESIDENT: Withdraw your comments.

The Hon. DIANA LAIDLAW: I withdraw and understand that I have an opportunity to address the matter later. I will stick to feral olives, and I do so on the basis that the Minister for Environment and Conservation has supported the polluter-pays principle in relation to a levy on plastic bags. Dr Rick Roush, former Director of the Cooperative Centre for Australian Weed Management, has advocated that olive growers should pay a levy that reflects the cost to the community of dealing with feral olives. Dr Roush states:

> . . . it was time that industries which continued to spread invasive plant species acknowledged the high public and environmental cost. Many thousands of dollars are spent each year in South Australia on olive control alone by public authorities and landowners [and therefore by taxpayers] who never planted an olive tree in their lives. At present—

according to Dr Roush—

> growers are obliged to manage their plantation to minimise the chances of olives spreading off property. Local government is supposed to enforce this control. That is already quite an ask seeing that olives are mostly spread by birds.

Dr Roush further states:

> . . . the market for olive products has compounded this risk. A downturn in price or demand will leave many growers unwilling or unable to manage their groves in ways that minimise seed spread.

He sums up by saying:

> There is a principle involved here. Weeds cost the Australian economy approximately $4 billion each year, and the figure is growing. And that does not include the effort and money that government and community put into environmental weeds that

invade bushland. This is a greater cost to Australia per year than the combined figure for salinity, soil, sodicity and soil acidity.

He supports the polluter-pays principle and then goes on to talk about the cost to the South Australian community and to agriculture alone being at least $60 million a year in terms of getting rid of weeds and feral plants, such as olives. I therefore ask the minister:

1. In the light of the work undertaken by me, as a former minister, in terms of banning olive planting in the Adelaide Hills watershed, has he made representations to the Minister for Urban Planning regarding the issue of growing olive trees in South Australia?

2. Has he addressed the issue of effective implementation of buffers in relation to olive growing, and does he support, in line with the polluter-pays principle, a levy on olive growers?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am aware that a cross agency committee has been set up to look at a lot of the problems associated with feral olives. I also understand that some work has been done by correctional services work teams in removing olive trees from the Adelaide Hills, as they are a great source of oil; when the bushfires go through they fuel fires like nothing else. A great deal of work is being done to carry on the good work the minister started in her regime when she was minister. I will get all the details from the minister for environment and bring back a reply. I can assure the honourable member that her question will be answered, and I think she will be pleasantly surprised with the work that is being done.

The Hon. J.F. STEFANI: As a supplementary question: will the minister ensure that the minister for environment is aware of the submissions that were made to the Statutory Authority Review Committee in relation to its work in this area and, more particularly, in a report that was prepared and presented to parliament last year?

The Hon. T.G. ROBERTS: I will refer that question to the minister in another place and bring back a reply. I would hope that any report that was put together by parliament and the hard work that goes into it would be major considerations for any minister or working party when it comes to making recommendations.

ABORIGINAL CULTURAL GUIDE

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the recently released Aboriginal cultural guide to assist health and community care workers.

Leave granted.

The Hon. J. GAZZOLA: I was interested to learn that an Aboriginal cultural guide for mainstream community and health workers was recently released. I understand that the guide will be a useful tool to improve Aboriginal people's health and well-being and will act as a guide for health workers to practise in a culturally sensitive manner. Will the minister outline the purpose of this guide, where the guide will be used and the potential benefits such a guide could provide in the area of Aboriginal health?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his ongoing interest in matters involving Aboriginal affairs and, in this case, an issue related to a new aspect of dealing with Aboriginal health which, from all reports, is probably the worst of any minority or other group in this country. My colleague in another place minister Key last week launched the Aboriginal cultural guide to assist health and community care workers to provide health and home care services in ways which are appropriate to the needs of Aboriginal people. The Aboriginal cultural guide encourages Aboriginal and mainstream community and health workers to work in partnership to improve Aboriginal people's health and well-being and to practise in culturally sensitive ways.

Services in Port Pirie, northern Yorke Peninsula, Wallaroo, the Lower North, Clare, Barossa, Angaston and Gawler will adopt the Aboriginal cultural guide. A service directory is also included as part of the guide. If the guide is adopted successfully in these regions it may be implemented more widely in rural South Australia. The guide is seen as a key resource for all state and non-government health services.

Members interjecting:

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

The Hon. T.G. ROBERTS: The minister said:

It is widely acknowledged that the experience that Aboriginal people have in our health, community and aged care services can be improved, and I am committed to a structure that provides the best services in a way that makes the most difference.

Some practical examples for health and community care workers in the Aboriginal cultural guide are that, in some cases, Aboriginal people have missed out on receiving timely services because mainstream non-indigenous staff have felt incompetent in providing culturally appropriate service or were fearful about offending the client, because they did not understand the culture. In many instances it is the client's responsibility to contact the service when they have additional needs; however, for Aboriginal people it is best that the case manager take the initiative to review them at regular intervals to identify their health status.

Unfortunately, some Aboriginal people shy away from mainstream services and in some cases that is put down to the lack of warmth or encouragement of our mainstream services in dealing with Aboriginal people in culturally appropriate ways. That can be overcome, in part, by this initiative. Certainly, other initiatives need to be put in place and encouraged. In some aspects of our mainstream health services we do not go out of our way to understand the cultural differences between metropolitan, regional and remote Aboriginal people. Hopefully, we can take some small steps to overcome some of the differences our mainstream services have when dealing with Aboriginal people—and many small steps can make the Aboriginal services go a long way.

MUSIC INDUSTRY

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier and Minister for the Arts, a question about the promotion of live contemporary music in South Australia.

Leave granted.

The Hon. SANDRA KANCK: Contemporary music in Adelaide suffers from an acute lack of exposure. Aside from the relatively limited audience for community radio and live performances, there is almost nowhere that contemporary music is played and heard. This lack of exposure is preventing contemporary musicians from reaching a much larger

audience and hampering the development of the music industry in South Australia. It has not always been this way. In the past, both SAFM and Triple M, with their programs 'Australian Made' and 'Home Grown', played local music to Sunday night audiences. The Democrats believe it is time for the state government to take a hand in the promotion of local music in South Australia. Will the Premier investigate the feasibility of the state government's sponsoring a program on commercial radio that will play contemporary South Australian artists. If not, why not?

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

The Hon. A.J. REDFORD: I have a supplementary question. Will the Premier also consider lobbying the federal government to change the rules of community radio stations to enable them to play local content more readily and simply?

The Hon. P. HOLLOWAY: I will pass that suggestion on to the Premier.

BODY ORGANS AND TISSUE

The Hon. A.L. EVANS: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the location of baby body parts.

Leave granted.

The Hon. A.L. EVANS: On 5 May 2003, the *Advertiser* reported that 300 South Australian mothers had learnt for the first time where their babies were buried following their deaths in public hospitals up to 40 years ago. Up to 40 years ago, public hospitals conducted autopsies on children and removed organs, tissue samples and bones without the knowledge or consent of families. I understand that the state government is providing counselling for some 1 200 people. Will the minister consider providing compensation to the families who have recently discovered that their dead relatives' bones and body parts were used? If not, why not?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer that important question to the Minister for Health and bring back a reply.

DROUGHT RELIEF

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about funding the removal of sand drift on the roads in the Murray Mallee.

Leave granted.

The Hon. D.W. RIDGWAY: On 5 April 2003, the Premier announced that part of the state's drought assistance funds would be redirected to the Murray Mallee region. As part of that package, $120 000 was promised to the district councils of Karoonda and Loxton-Waikerie to remove sand drift from roads.

The Hon. A.J. Redford: How much money?

The Hon. D.W. RIDGWAY: It was $120 000. As members may be aware, the final expected cost of these operations is expected to be over $500 000. It has come to light today through an article in the *Stock Journal* that the two councils in question are yet to receive a cent in relief funding. My questions are:

1. Why have vital drought relief funds not been released to the two councils in question?

2. When does the minister intend to release the funds that have been promised to these two councils for the removal of sand drift on roads?

3. How does the minister recommend that the councils in question continue to fund normal operating and road maintenance works in light of the fact that they are now diverting huge amounts of council resources simply to keep the sand drift affected roads open?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member obviously did not listen to the answer I gave earlier this week because he would have found the answer to his question contained in that. However, for the benefit of the honourable member, I will repeat that $120 000 is to go to councils in the Murray-Mallee region. At least two councils are affected: the Karoonda East Murray council and the Loxton council. The government decided that it would make the money available to the Local Government Association and that association would determine the relative distribution of that money between the councils. I understand that they are meeting very shortly and, as I indicated the other day, I am only too happy to get that money out to those councils as soon as possible.

What I might add to the answer I gave the other day is that funding is available under the local government disaster fund. That is obviously a matter for my colleague the Minister for Local Government, but it is my understanding that, under the provisions of that fund, if demand for council services as a result of a disaster (and there is no doubt that drought is a natural disaster) exceeds more than a certain threshold figure, that fund can be triggered. In relation to any assistance those councils might get in relation to that, we have to reach the stage at which the spending reaches that trigger point. It will probably be a question for the end of the financial year as to how much the councils may receive under that fund, if of course they apply. That is a matter for my colleague and I will get some information for the honourable member in relation to that as a source of funds.

As far as the $120 000 from the state's drought assistance package is concerned, we are simply waiting for the Local Government Association in the region to meet and determine the relative distribution of funds to the councils within the area.

The Hon. R.K. SNEATH: I have a supplementary question. Does the minister consider that the cuts in drought funding in the federal budget will have some affect on the Mallee farmers? Does the minister consider justified the South Australian Farmers Federation strong criticism of the federal Liberal government?

The Hon. P. HOLLOWAY: The criticism by the South Australian Farmers Federation is well justified, but I notice also that the national body and farm leaders around the country have expressed their concern about the fact that, in the federal government's 2003-04 budget, the allocation for drought appears to have diminished. The dissatisfaction of those groups does not extend just to the apparent cut in the amount of money that has been set aside for drought because many in the farming community are concerned about what appears to be cuts to salinity programs, the Murray River, and so on.

I had another function to attend this morning, but I hope that members of this place attended the briefing by my colleague the Minister for the River Murray and received first-hand some information about the potentially dire

situation this state could be facing in relation to the Murray River.

It is obviously disappointing that there is apparently little commonwealth support in relation to that important issue as well. If we are talking about drought assistance in the Murray Mallee and other areas of this state, this government has more than done its bit, but it is of great concern to the farm community that it appears that less than 2 per cent of the farm families in this country who are getting assistance under commonwealth measures come from this state.

MINISTER FOR THE SOUTHERN SUBURBS

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 achievements, or lack of them, of his office.

Leave granted.

The Hon. T.J. STEPHENS: Members would by now be well aware of my interest in the southern suburbs portfolio, in particular the role and functions the minister and his well-paid staff member have actually undertaken. To further my knowledge of the portfolio, I sought to view information outlined by the minister on his web site.

Members interjecting:

The Hon. T.J. STEPHENS: Yes, I was there Monday last week. I can report to members that on minister Hill's web site for the southern suburbs—

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation and I cannot hear the question.

The Hon. T.J. STEPHENS: I report to members that on minister Hill's web site for the southern suburbs there appears nothing but the minister's head. I would not dare comment on the view of his head as it would be improper. I saw a link on the web site to government achievements but, other than mentioning the establishment of the Office of the Southern Suburbs, no other achievements of the portfolio of the southern suburbs are registered. This seems strange as in the minister's speech to the estimates committee he set out several areas where, in his first three months, he had an impact. These included relocation of a preschool at Willunga, the appointment of a youth worker to assist adolescents and a community drug worker—all admirable issues.

However, the minister did grab my attention with his assistance granted to Mitsubishi to ensure that the jobs of thousands of South Australians, particularly in the southern suburbs, were protected. Putting aside that this deal was all but completed under the previous government, it is important to note that the Minister for the Southern Suburbs lists this as an achievement of the southern suburbs ministry. My questions are:

1. Will the minister explain the difference between taking credit for the survival of Mitsubishi and his refusal to answer a question in the lower house regarding the demise of Port Stanvac under his government?

2. What role did the minister have in the deal with Mitsubishi?

3. Will he answer and clarify as a matter of urgency exactly which issues he will allow himself to be involved in as the Minister for the Southern Suburbs, or are we to assume that he will be involved in only the successes and not the failures?

4. Will the minister tell the council how many times since 5 March 2003 he has met with Mobil regarding Port Stanvac and what issues were discussed?

5. What has cost more—his office or the initiatives he has announced?

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

NOTICES OF MOTION

The PRESIDENT: During question time the Hon. Diana Laidlaw sought leave to give a notice of motion. I was of the understanding that she was going to move for the suspension of standing orders, which would normally be the process. Notice of motions, I remind members, are to be taken during introductory proceedings before question time and in future I will do that. Ministers can do a notice of motion at any time, but the sessional understanding is that notices of motion are done in the procedural stages before question time and we will revert to that process from now on.

REPLY TO QUESTION

BUCKLAND PARK WASTE TREATMENT FACILITY

In reply to **Hon. CAROLINE SCHAEFER** (24 October 2002).

The Hon P HOLLOWAY: The Minister for Urban Development and Planning has provided the following information:

Prior to answering specific questions I would like to provide an overview of the process involved with its multiple steps and opportunities for consultation prior to a decision being made on a major development or project. Section 46-48 of the Development Act 1993 outlines the process involved but for expediency I would like to provide this 'summary' version. A development application is received by council or Planning SA and is sent to the minister for consideration to declare it as a major development or Project. Once this occurs the proposal is referred to the major developments panel (an independent body) to establish the guidelines for the environmental assessment, and set the level of assessment. In order to establish the guidelines, the panel drafts an Issues Paper. This is then circulated to other government departments and the public for comment. The panel then adopts Guidelines based on the comments received in response to the issues paper. The Public Environmental Report (PER) was prepared by Jeffries and it went out for public and government comment for 30 business days. A public meeting was also held on 5 February 2003. Jeffries is now producing a response document answering the issues raised before the Minister for Urban Development and Planning releases the assessment report.

In regard to the Department of Primary Industries and Resources (PIRSA) input, I provide the following answers:

1. PIRSA was consulted on the issues paper for the Jeffries Garden Soils composting proposal at Buckland Park. A letter was sent to PIRSA with the issues paper attached on 29 July 2002. PIRSA responded through both its Land Access branch and acting chief executive officer. The issues raised for consideration for the guidelines included fruit fly, exotic pests and diseases and spread of pathogens. SARDI, which is a part of PIRSA were not consulted directly as its interests were dealt with through the wider PIRSA response.

2. The referral procedures worked correctly in this case as PIRSA had an input and will have a further input at the exhibition stage of the PER, and during the assessment.

3. Further opportunity for consultation is available as explained earlier.

4. Protocols in relation to protection of the Adelaide Plains horticultural, floricultural and wine industries are the responsibility of the Minister for Agriculture, Food and Fisheries and this is why PIRSA have been consulted. The thorough environmental assessment process will ensure the interests of the horticulture, floriculture and wine industries are taken into account.

In addition to the answer provided by the Minister for Urban Development and Planning, I provide the following information:

As previously indicated, PIRSA did provide a response to the major development panel's issues paper and highlighted several potential concerns from a pest and disease perspective. I am pleased to report that as a result of this response, there has been follow up with PIRSA by EPA and subsequently by the proponents. I am also pleased that a contingency planning process is currently being worked through with PIRSA that should suitably address the issues that were identified. I believe that a contingency planning process for quarantinable plant pests and diseases may well become an important part of future proposals of this nature.

I would also like to take this opportunity to correct one comment made by the honourable member concerning the implications of a fruit fly outbreak in the northern Adelaide Plains region. In the event of an outbreak there would indeed be the imposition of a suspension zone in relation to movement of commercial fruit fly host produce into certain interstate markets and into the Riverland. The size of the zone will depend upon which species of fruit fly is involved and the particular market involved. The implications of the suspension zone is however not that produce cannot be moved or sold but that this produce will require to be subjected to approved treatment and certification before it can be marketed.

CONSTITUTION (GENDER NEUTRAL LANGUAGE) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1. Clause 1, page 3, line 3—Before 'Gender' insert:
Casual Vacancies and

No. 2. Clause 2, page 3, after line 11—Insert:
Section 13(4) After paragraph (f) insert:
(fa) there is no requirement for all members of both Houses of Parliament to be present at a meeting of the assembly; and
Section 13(4)(g)After 'members' insert:
present at a meeting
Section 13(4)(h)After 'member' insert:
present at a meeting

No. 3. New clause, after clause 2—Insert:
Validation provision
3. A decision under section 13 of the Constitution Act 1934 made before the commencement of this section by an assembly of both houses of parliament cannot be called in question on the ground that not all members of both houses of parliament were present at the meeting of the assembly at which the decision was made.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

In committee.

(Continued from 14 May. Page 2313.)

Clause 3.

The Hon. NICK XENOPHON: When the committee last met I touched on a number of issues with respect to the objects clause. As I understand the minister, the thrust of the bill is to empower consumers to improve the quality and safety of the system of health and community services in this state. I also raised in that very context the issue of the interaction of this bill with the Law Reform (Ipp Recommendations) Bill 2003. I am aware of the standing orders in this regard, but I think it is important that the government provides a number of answers in relation to this, because it is my grave concern that, whatever rights this Health and Community Services Complaints Bill gives to consumers of health services in this state, they will effectively be taken away in many instances with respect to the interaction of the Law Reform (Ipp Recommendations) Bill.

It is worth putting on record the provisions in the Ipp bill that I am concerned about so that it puts into proper context my concerns in relation to this particular bill. Clause 40 of the Ipp bill provides that, in a case involving an allegation of negligence against a person (the defendant) who holds himself or herself out as possessing a particular skill, the standard to be applied by a court in determining whether the defendant acted with due care and skill is, subject to this division, to be determined by reference to the following: (a) what could reasonably be expected of a person professing that skill, and (b) the relevant circumstances as at the date of the alleged negligence and not a later date.

In relation to clause 41, headed 'Standard of care for professionals', subclause (1) provides that a person who provides professional service incurs no liability in negligence arising from the service if it is established that the provider acted in a manner that (at the time the service was provided) was widely accepted in Australia by members of the same profession as competent professional practice. Subclause (2), however, goes on to say that professional opinion cannot be relied on for the purposes of this provision if the court considers that the opinion is irrational. Subclause (3) provides that the fact that there are differing professional opinions widely accepted in Australia by members of the same profession does not prevent any one or more or all of those opinions being relied on for the purposes of this section.

Subclause (4) provides that professional opinion does not have to be universally accepted to be considered widely accepted. Subclause (5), the final subclause of that clause, provides that this section does not apply to liability arising in connection with the giving of (or the failure to give) a warning, advice or other information in respect of the risk of death or injury associated with the provision of a health care service.

There are a number of questions arising from that. I certainly will not criticise the minister if these questions cannot be answered at this stage. However, on the face of it, the government is purporting to give consumers of health services in this state certain rights. It is proclaiming that this is a great advance for patients and that it is a way to lift the standards of health care. However, in many respects, another bill in this place deals with a similar issue—that consumers' rights will be taken away when different standards are in place.

My first question is: has the government considered the interplay between the bill presently before us and the Law Reform (Ipp Recommendations) Bill, to the extent to which this bill will be ameliorated or compromised, or its effectiveness in some way reduced, by virtue of the Ipp recommendations bill?

The Hon. T.G. ROBERTS: I thank the honourable member for those questions. There is a certain amount of frustration in dealing with the bill before us without the information that is required for briefings to understand the interrelationship between the two bills. I think that the best way we can proceed is to take questions on notice and arrange for further briefings. I will then be able to obtain the replies that are required and report progress, if that is satisfactory to committee members.

The Hon. NICK XENOPHON: I thank the minister for his response. Perhaps I can put a number of questions to the minister to tie in the two bills so that an appropriate response can be obtained in due course. Yesterday, my colleague the Hon. Angus Redford touched on the very important question of systemic issues.

In relation to the Health and Community Services Complaints Bill, is it the case that, if someone brings an action in court for damages in a claim for medical negligence, a complaint can no longer be brought? Effectively, that means that you cannot go to the ombudsman in those circumstances. In other words, if proceedings have been issued, is it the case that you cannot go to the ombudsman in those circumstances? I am not sure whether the minister can answer that. I think that is one question that may be within the minister's power to answer now, because some consequences flow from that. In other words, if you have a legal action, can you bring a complaint?

The Hon. T.G. ROBERTS: I will endeavour to seek a reply to that question. I suspect that other questions will flow from the reply. The best way to proceed is to compile a list of questions. From the line of questioning that the member is adopting, crown law advice and ministerial advice may be involved. Perhaps the member could put all those questions on notice.

The Hon. NICK XENOPHON: I will list a few questions at this stage. I think my colleague the Hon. Angus Redford may have a few questions and, arising from those, there may be a few more. It is my understanding that, in terms of the structure of the bill before us, it aims to ensure that there are high standards to improve the benchmarks for health and community services in this state. In fact, the objects with which we are now dealing relate to improving the quality and safety of health and community services in South Australia.

In that respect, this bill reflects the landmark decision in 1975 of His Honour Chief Justice King in the South Australian Supreme Court, F v R. I will give an outline of the facts of that case, because it is relevant in terms of similar complaints that could be made to an ombudsman in this statutory scheme. It was a question of whether the failure to advise the patient of the risk of failure of tubal ligation was actionable or not. In that case, all the doctors called said that they would not warn of that risk; it was not worth the trouble because it was such a rare occurrence. The former chief justice said that the medical standard is often determinative, but there may be cases where the medical standard may be wrong for all sorts of reasons—for instance, for reasons of the convenience of the medical practitioner—and that a high standard (in essence reflecting community standards) should apply. In that case, the plaintiff was successful.

In essence, that case overturned the 1957 House of Lords decision of Bolam v Friern Hospital Management Committee. In that case, the House of Lords stated that, essentially, as long as a doctor acted in accordance with reasonably competent practices of his or her colleagues, the doctor was not negligent. However, F v R overturned that.

The objects of this bill seem to be very much in step with F v R, which is very much at odds with the Bolam principle that the Australian court overturned some quarter of a century ago. My concern is that the law reform Ipp recommendations bill is square on the Bolam principles; that is, if your colleagues in the medical profession say that a practice is satisfactory, the plaintiff does not have any redress. Today, a legal practitioner gave me an example of GPs performing vasectomies. If they get it wrong and there are complications, in those circumstances, under the Ipp recommendations, if the standard is within the range of that of your fellow GPs, that is fine. However, in the context of this complaints bill, it may well be that the ombudsman may find that that is not a reasonable standard.

My question to the minister is: what is the interplay between the two bills, given that this bill quite rightly follows the F v R principle, as espoused by Chief Justice King over a quarter of a century ago? However, the Ipp bill is very much at loggerheads with that and is following the old House of Lords Bolam principle, which many would say is condescending and paternalistic in that it is a question of 'doctors know best'. I commend the health minister for her campaign for this bill over a number of years, including when she was in opposition. However, my concern is that whatever good work this bill may potentially do will be undermined by the other bill, in the context of those conflicting principles.

The other example that was given to me was of an actual case that was resolved in favour of the plaintiff concerning obstetric surgery performed by a general surgeon. The surgeon ruptured the patient's bladder. The surgeon got a colleague, another general surgeon, to assist him to repair it, but the woman suffered very severe complications. A number of weeks later she was admitted to another hospital for emergency treatment. I understand that septicaemia was involved. In that case a urologist said, 'The repair of the bladder was entirely unsatisfactory. That is not the way you repair a bladder', and that could well lead to a successful complaint under this bill. However, under the Ipp recommendations bill, because the general surgeon did what other colleagues would have done, that woman's claim would not succeed. That is why I just cannot reconcile the two bills given that, inevitably, there will be an interplay.

I understand that the health minister has the carriage of this bill and that the Treasurer has the carriage of the Ipp bill. The fact is that they are different ministers but still part of the same government, and I just cannot reconcile the two bills and the way in which the legislation would impact on patients with a grievance. It seems to be entirely incongruous. There are other issues in relation to informed consent, and I refer, of course, to the case of Rogers v Whitaker, the landmark High Court decision, where Mrs Rogers succeeded in a claim against Dr Whitaker because the doctor did not advise her that there was a slight risk of serious consequences, namely, sympathetic ophthalmia. I think that it was only a one in 30 000 chance.

Mrs Rogers made a number of inquiries. The doctor did not advise her of the risk of sympathetic ophthalmia. Having surgery on one eye and then, essentially, losing the sight in the other eye, effectively, Mrs Rogers became blind. Under the previous law it was not necessary to advise in those terms. Under the Ipp recommendations bill, I think that Mrs Rogers (if the Ipp bill is passed) would not have a claim, whereas she may well have a valid complaint under the Health and Community Services Bill, but if she pursues a claim for compensation she would be precluded from pursuing a complaint.

In any event, the complaint would not lead to compensation, and the concern is that someone like Mrs Rogers, who was left with quite a serious disability—blindness—would not be able to seek redress or compensation, and that concerns me. To what extent is there an interplay between the two bills if the Ipp bill is passed in its current form? I appreciate that it is in the other place at the moment, but I would have thought that the two cannot be isolated; that there

is an interplay between the two, and we need to know how they will work together.

I am concerned that the bill before us is about improving standards, of making the medical profession accountable, but the Ipp recommendations bill goes totally against that grain. They are my concerns. I could cite other instances, but I am concerned that the work that this bill potentially can do will be undermined fundamentally by the Ipp recommendations bill, and it will—

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: The Hon. Sandra Kanck says that there is also an interplay with the proposed Medical Practice Bill, and that is the case; although my understanding is that, if you take away an individual's rights, their civil rights, their rights to bring a claim in certain circumstances, any medical complaints and the like are put on hold pending the outcome of any resolution in the courts or resolution of a claim. However, the standards are quite different. The government is purporting to give people rights in this bill but is taking them away in another bill, and that is at the nub of my concern. I also ask the minister to comment on the interplay, in particular with clause 40(1)(ii), of the Ipp recommendations bill, which states:

> Professional opinion cannot be relied on for the purposes of this section if the court considers that the opinion is irrational.

Does that mean, in terms of the interplay of this particular bill, that if, under the Ipp recommendations bill, a doctor is anything short of irrational—and, presumably, that would mean, to use the vernacular, being slack, lackadaisical, indifferent to the patient's welfare, sloppy in their work, but not irrational—that person may not have a claim for damages; that a medical practitioner will be able to say, 'Well, look, why should I be subject to a complaint here because there is another act of parliament that says that, anything short of irrational, I'm all right? I'm not going to be subject to any consequences in respect of that.'

Also, what happens if a person brings a claim before the courts but fails because the Ipp bill is passed in its present form? Where does that leave a patient who may have suffered a serious, in some cases a catastrophic, injury in the context of this health complaints bill? They are just some of my concerns, and I hope that, in due course, the minister can answer them.

The Hon. T.G. ROBERTS: I thank the honourable member for his questions. They are important questions that need to be answered in relation to the objects and the end relationship of the two bills. If any other members have questions, they can put them on the record and we can deal with them all at once.

The Hon. A.J. REDFORD: I think that debate on this bill will be a very long and tedious process and, if the minister is looking for someone to blame, perhaps the idiot who wrote the minister's notes for his second reading explanation is the person he ought to look at. The area I really want to explore is section 3E and, for those avid readers of *Hansard*, all four of them. It provides:

> The objects of this act are to identify, investigate and report on systemic issues concerning the delivery of health or community services.

I applaud that objective, and I think that we do need a body to investigate and report on systemic issues. I do not know whether the minister wants to answer it now or take it on notice and come back with an answer—I am in his hands in that respect—but it seems to me that there is an impact on the jurisdiction of the Coroner, because the Coroner does have jurisdiction to look at systemic issues that might impact to the point of death. I would be obliged if the minister could answer—

The Hon. Nick Xenophon interjecting:

The Hon. A.J. REDFORD: Yes. I would be obliged if the minister could—and I am comfortable with his taking this on notice—indicate how he sees—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: —yes—the inter-relationship between the Coroner's office and this proposed office, and what will be the protocols that might exist between the two offices so that we do not get duplication? Secondly, will this commissioner have the primary function in relation to the systemic investigations and, if so, why does the government prefer this office to do it as opposed to the truly independent Coroner and his office? Thirdly, has any thought been given to extending the Coroner's powers to the point of enabling the Coroner to initiate systemic issues above and beyond his current jurisdiction, which is generally confined to death and fire situations? Fourthly, who will initiate such investigations and reports, will it be done at the behest of a minister, the behest of the public, the behest of the commissioner, or all three? I would also be interested to know what sorts of issues have already been identified in relation to this object. That is, does the minister have anything in particular in mind now that needs to be investigated from a systemic point of view?

The Hon. T.G. ROBERTS: It appears that the complication is that we have another bill before us—the Coroners bill—and some of these questions may also need to be addressed in relation to that bill. I think it is timely that I report progress, then we can try to get some answers on how we proceed with respect to the relationship between the three bills and the complications that are emerging in relation to the objects of this bill.

Progress reported; committee to sit again.

RIVER MURRAY BILL

Adjourned debate on second reading.

(Continued from 13 May. Page 2282.)

The Hon. G.E. GAGO: I rise to support this very important bill. The Murray-Darling Basin is a vital ecological landmark and ecosystem in South Australia and Australia, providing the lifeblood of much of South Australia. Water is essential to our survival and the survival of the plants and animals that exist on this earth. Without water we would quite simply perish. I came across a range of very interesting facts and figures in David Suzuki's book, *The Sacred Balance*, some of which I would like to share with you. Apparently, we humans are approximately 60 per cent water by weight. Approximately three fifths of the water within us is carried within the cells that make us up, and the other two fifths is outside these cells in various bodily fluids, such as blood plasma and cerebral spinal fluid. Babies are approximately 75 per cent water in weight and elderly men and women, 53 and 46 per cent respectively. Without looking at anyone in particular in this chamber, I would say there are probably some higher percentages than that.

Each day approximately 3 per cent of the water that makes up our body is replenished. If our intake of fluids is inadequate, our kidneys decrease the amount of water they excrete. The amount of water we have in our body at any one time affects the concentration of various other substances in

our body and the many functions of our body. Uncontaminated water is vital to our existence. Further, if the quality of our water is inadequate we can potentially suffer from a number of diseases or conditions as a result of contamination by either pathogens or substances harmful to our physical well-being. Of all the water on earth, approximately 0.0001 per cent of it is readily accessible freshwater.

It is also worth noting that, in contrast to the great rivers that run through the middle of North America, we have a huge desert in the middle of Australia. The few supplies of fresh water we have in Australia must be looked after, and we must do it now. It is not just a matter of maintaining the current condition of the water supply we have; we must do what we can to improve the quality and conditions of those water sources. It is with great pleasure, however also with a certain degree of angst, given the amount of damage that has already occurred, that I support the River Murray Bill, a vital step in ensuring that we in South Australia protect one our most vital supplies of water in this state.

As you are no doubt already aware, sir, the River Murray is of great importance and significance to South Australia and Australia. The significance ranges from economic to cultural and all the benefits that come from a supply of useable freshwater. Some 41 per cent of agricultural production and 73 per cent of irrigation in Australia is provided by the Murray-Darling Basin. The income generated by farms in South Australia alone is $506 million.

Culturally, the Murray River is an important part of both indigenous and non-indigenous cultures. In South Australia the Ngarrindjeri people of the lower Murray lakes and Coorong, even throughout European colonisation, have maintained a close association with their land which continues through to today. The South Australian Museum has done much work in recording the history of and benefits to these people. There are significant Aboriginal sites along much of the Murray River, including many burial sites. A vast ecosystem that is the river and its surrounds provides an abundant supply of food and water for these communities.

The River Murray is part of non-indigenous Australian culture also, as well as providing many economic benefits in the form of irrigation and agriculture. Many of us have fond memories of visiting the river regularly on family trips and school holidays or growing up on its banks. Much of Australian literature is set on the banks of the River Murray, such as Nancy Cato's *All the Rivers Run* and Colin Thiele's *Storm Boy* and *River Murray Mary*. Many of our artists have gained inspiration from it, such as John Davis, who is an Australian sculptor, one of many, as I know you would know, Mr Acting Speaker. The River Murray is also the fresh water supply for approximately 3 million Australians.

It is a disgrace that the river is in its current state and that an ecological landmark of such importance and significance to us is suffering from a range of serious illnesses. If we leave it in its current state and do nothing to improve it, we will not only not have it for the many uses we currently have but also much of the surrounding ecosystem will be irreversibly damaged. It is bad enough that already 20 extinct mammals, a further 16 endangered mammals and 35 endangered species of birds are associated with the Murray-Darling Basin. Those 20 extinct species of mammals will never be regained; we have lost them forever. We run the risk of further decreasing the biodiversity of the basin with further endangered species. We also run the risk of not being able to utilise it as a source of clean water for domestic purposes or for irrigation, for that matter.

I was appalled and dismayed to see that in the federal budget just released the Prime Minister, Mr John Howard, made no real new money available for the River Murray. In fact, I quote from an article in today's *Australian* which speaks for itself, titled 'Salinity cuts rub salt into wounds':

> Careful analysis shows that the government has artificially inflated the $2 billion environment budget by including Customs and AusAID funds and cutting money for critical greenhouse and salinity initiatives.

The article continues:

> Close scrutiny shows a $63 million budget cut over two years from the flagship national action plan for salinity and water quality and no money to restore water to the Murray River.

Even the national Farmers Federation has criticised the reduction of funds to the salinity program. It is clear that the federal Liberal government has no real commitment to fixing the River Murray. Instead, it prefers to give everyone an extra tax cut. I would rather it go to the River Murray.

The bill establishes objectives for a healthy River Murray or ORMs. These ORMs include river health, environmental flow, water quality and human dimensions objectives. These objectives are holistic in what they aim to achieve, including the protection and restoration of the ecosystem of the River Murray; protecting further extinctions of native flora and fauna; reinstating natural flow regimes and keeping the mouth open; and improving the water quality of the river by minimising the incidence and effects of pollution, algal blooms and salinity. The human dimensions of the river are also to be incorporated into the objectives of the legislation. If this bill is passed, South Australia will be the first state to enshrine the Murray-Darling Basin Commission's objectives in legislation—objectives which, I might add, the then Liberal minister signed off on.

This legislation is enshrining those objectives into state legislation. It shows the rest of the country that we are serious about protecting the River Murray. It would be a nonsense to enshrine these objectives and then give the minister no power to influence activities that could harm the river. Drastic problems call for drastic measures, and the degradation of the River Murray is an issue that calls for far-reaching and sweeping measures to ensure that we as a community and an economy can continue, for many generations to come, to reap the benefits that the River Murray provides. Under this bill, the Minister for the River Murray will be provided with a number of new powers and obligations, all aimed at protecting the river from unreasonable harms.

As other speakers in this place have already outlined these responsibilities and powers, I will only briefly summarise them. They are:

- preparation of the River Murray Act;
- implementation strategy;
- obligation to promote integration of the River Murray Act with other relevant legislation;
- reporting to parliament on the health of the river;
- having an input into statutory planning documents; and
- having an input into some statutory authorisations.

The bill also establishes a new duty of care—a duty not to harm the river—and includes a power to make regulations which could include restriction or prohibition of activities that may harm the river. However, it must be stated that the powers of the minister do not extend to the level that members opposite have mistakenly interpreted.

I will briefly explain a few misunderstandings and outline what is in fact the case. For a start, referring to what the Hon. Caroline Schaefer said, the minister does not have 'oversight

for anything and any act. . . including (any). . . that he deems to affect the health of the river'. It is a shame that the Hon. Caroline Schaefer is not present to listen to these comments. One of the minister's responses—

An honourable member interjecting:

The Hon. G.E. GAGO: She might learn something. One of the minister's responsibilities is to keep under review the impact of the administration of other acts on the health of the river and, where changes are needed to protect the river, make recommendations to other ministers. He has no powers in relation to those other acts (except as set out in the specific amendments in the schedule to this bill, which will allow him to impose conditions on certain licence applications, in order to protect the river). It is quite clear. It is also not the case that the minister has 'overarching power'—and again I refer to what the Hon. Caroline Schaefer said—over the Minister for Planning and other ministers. He quite simply does not.

Certainly the bill says that, where a particular application for a particular type of licence is referred to the Minister for the River Murray, he may impose certain conditions on that licence (as necessary) to protect the river. That regime is the same as the existing system in the development regulations. Adherence to that regime has by no means prevented desirable development from occurring. It has ensured that certain things are considered and taken into account. Another fallacy is that the bill will not, as the Hon. Caroline Schaefer said, 'consider those whose livelihoods are affected by it'. It is a real pity that the honourable member is not present to hear some of this so that she understands the bill better—well, I should say, understands it at all.

This bill aims to ensure that the state, and various communities, will be able to utilise the river for many generations to come. The bill ensures that those whose livelihoods depend on it will be able to benefit from it in the long term, as well as ensuring that the state, on a whole, is able to utilise it as a resource. Restoring and maintaining the health of the River Murray is the only way in which we will be able to sustain benefits over the long term. I remind members of the human dimension objective in the bill, which includes:

> taking a flexible approach to river management to take account of community interests, knowledge and understanding of the River Murray system, recognising indigenous and other cultural and historical relationships with the river and the importance of a healthy river to the economic, social and cultural prosperity of the communities along the river and the community more generally.

It is clearly apparent that the human dimensions, including the livelihood of those affected by the bill, are to be taken into consideration when any decision or recommendation is made. In fact, that obligation is now enshrined in legislation as part of the objectives.

Lastly, in her criticism of the bill, the Hon. Caroline Schaefer—and I note that she is still not present to hear these remarks—said that the minister will be able to make an order against local governments that can cease or restrict any development in the region without the minister's permission. Once again—and I apologise that I am so tedious—this is in fact not the case. Orders to enforce the duty of care are the only orders that can be made. An enforcement order can be issued only against a specific activity in a specific circumstance. It may be appealed against. In most cases, modification of an activity adversely affecting the health of the river will occur to limit those adverse effects. Only if it is demonstrated that it is the only way for the river to be protected can the order prevent an activity from occurring.

This process is modelled on environment protection orders which are useful tools and which have been demonstrated to be useful tools in educating and managing activities which have an adverse environmental impact. We simply must act. We must attempt to alter the adverse effects our actions have on the River Murray. To 'Save the Murray', we obviously must act collaboratively with all states that can influence the health of the river, as well as the commonwealth government, irrespective of its obvious lack of commitment, which I addressed earlier in my speech. However, we are in a position to take a lead in showing just how serious we are about protecting this invaluable resource. We must act and clearly we must act now. We have before us an opportunity to implement sound and workable legislation, and I urge all members to support this bill.

The Hon. DIANA LAIDLAW: Mr Acting President, I rise on a point of order. I am seeking clarification. I am not sure whether it is a matter of standing orders or a convention of this place, but I note that, in speaking to the second reading, on three occasions the Hon. Gail Gago referred to the absence of my colleague the Hon. Caroline Schaefer. If it is not a standing order that that should not be done, I kindly advise her that such a practice could easily be used against her in the future at a very sensitive time and members generally refrain from such cheap comment.

The ACTING PRESIDENT (Hon. R.K. Sneath): What is your point of order?

The Hon. DIANA LAIDLAW: I am asking whether it is a standing order or a convention, and I am offering advice at the same time.

The ACTING PRESIDENT: I am informed that it is not a standing order and the honourable member should not offer advice but state her point of order. Perhaps the honourable member can see the Hon. Caroline Schaefer in the chamber. I cannot.

The Hon. T.J. Stephens: That is fine. We will just make sure that we reciprocate.

The Hon. DIANA LAIDLAW: On behalf of the Hon. Caroline Schaefer, I can say that she is having a briefing with a government minister and that is why she is not present in the chamber.

The ACTING PRESIDENT: That is not a point of order, either, and I am sure that the Hon. Caroline Schaefer can speak for herself when she does return to the chamber if she deems it necessary to do so.

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

CONSTITUTION (GENDER NEUTRAL LANGUAGE) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

The Hon. P. HOLLOWAY: I move:

That the House of Assembly's amendments be agreed to.

This bill had its origins in this chamber. The Hon. Diana Laidlaw introduced the bill to change the rather outdated language that is in the constitution, and that was supported by all members of this place. When the bill reached the House of Assembly, and given the Hon. Diana Laidlaw's imminent departure from this place, some consideration was given to what would happen in relation to a joint sitting. The honourable member raised with a number of government members the timing of her departure inasmuch as that would affect the

availability of members from the government and opposition to attend a joint sitting to elect her replacement.

As my colleague the Attorney-General pointed out in another place, section 13 of the Constitution Act provides for the filling of casual vacancies in this house. Subsection 13(1) provides:

> Where a casual vacancy occurs by death, resignation or otherwise in the seat of a member of the Legislative Council, a person shall be chosen to occupy the vacant seat by an assembly of members of both houses of parliament.

To enable that casual vacancy created by the Hon. Diana Laidlaw's forthcoming retirement to be filled before this council resumes sitting on 7 July after the budget session, the assembly to choose the person to fill the casual vacancy needs to happen in the week beginning 23 June. As my colleague the Attorney-General pointed out, the government has received legal advice that it is necessary for all members of both houses to attend an assembly under section 13.

The Hon. A.J. Redford: Where did he get that advice?

The Hon. P. HOLLOWAY: From the Solicitor-General. The government understands that some members will not be available to attend an assembly during the week beginning 23 June and will not be available until the week beginning 14 July. To enable the section 13 assembly to choose the person to occupy the seat to occur in the appropriate time, the government decided to move an amendment to clarify it. There was a lengthy and interesting debate in the other place yesterday and, if members have the opportunity of reading the *Hansard*, I suggest they do so.

The Hon. Diana Laidlaw: It was pretty colourful in places.

The Hon. P. HOLLOWAY: There were some interesting speeches. Some of those speeches were a lot more helpful than others, but it was an interesting debate and, as it transpired, neither the government's amendment to deal with this problem nor the opposition's amendment was put. Rather, an amendment that was put by the member for Enfield ultimately received the endorsement of the House of Assembly, and we are dealing with that now. Basically, my colleague's amendment clarifies that there is no need for every member of both houses of parliament to attend such a joint assembly which, for most of us, clarifies within the constitution the situation that we all understood and previously applied. We have joint sittings, most of us do our best to get here, but whether there have been occasions when members were absent and whether that might have affected the legality of the appointment is something that we would have to go back into the records to find.

From the government's point of view, this issue having come up, it is better to clarify it, and one of the further amendments that has been suggested by the House of Assembly would clarify any doubt over the appointment of a member in the past. I should declare some personal interest in that, as I am a member who came into this place as a result of a casual vacancy.

The Hon. A.J. Redford: Are you here illegally?

The Hon. P. HOLLOWAY: I am sure that everyone was here that day. In any case, and fortunately, there has been an election since that time. I note from the debate in another chamber that there is some debate about the Solicitor-General's opinion, and by way of interjection the Hon. Angus Redford has indicated that he does not necessarily agree with it. Nevertheless, the issue having been raised, it is commonsense that the matter be clarified for the future. That is the reason behind the amendments made by the House of Assembly.

The elements of the bill put forward by the Hon. Diana Laidlaw have received the almost unanimous support of the other place, and I think that we would like to see it in place. It also provides the opportunity to ensure that the procedures for appointing a member to this place by way of casual vacancy are clarified.

With those comments, I seek the endorsement of the committee for the amendments moved by the House of Assembly. I understand that there still may be some doubt amongst some members as to whether the amendment moved by my colleague the member for Enfield is the best one, and we will deal with that when we come to debate it. However, I am sure that all of us support the principle.

The Hon. DIANA LAIDLAW: I acknowledge the diligence with which members of the other place addressed this bill and facilitated its passage. It was private members legislation, as the minister mentioned, but it was taken up in the other place as a government bill. When I introduced it, I had no idea what I was unleashing, and, in retiring, I had no idea what I was unleashing. It is fortuitous that this bill has become a vehicle for tidying up some issues that seem to have been unresolved, that is, the status of members of this place who have been appointed by joint sittings.

I will not get into all of the legal or political arguments about that or the government's decision to act on the advice received, but certainly I announced that I would be retiring on 6 June, and I was advised that only a general gathering of members was required. I would never create doubt for my party colleagues that I would leave a situation where it was uncertain whether or not we had our full number of members on the floor of this place, and I make that very clear.

I also take this opportunity to comment on the remarks by members in another place on this bill. With one exception they all made well researched comments on the history of women seeking to participate in the vote and in this parliament. All but one contribution were undertaken with goodwill. The one exception was the member for Hammond. Earlier today I gave notice of a motion that seeks to call on this council to condemn the statements by the member for Hammond in addressing this bill in another place, so I will not dwell on the matter at length today, but it is an immediate opportunity for me to make some brief comments. The member for Hammond, as a member and as Speaker, has a habit of adopting a holier-than-thou attitude on many subjects.

The Hon. A.J. Redford: Sometimes he sets the bar very high and casually strolls underneath it.

The Hon. DIANA LAIDLAW: That is very good comment. What I find pathetic and sad is that in seeking to promote his own sense of importance and perfection he is prepared to stoop to false, injurious and offensive claims about the background of my imminent retirement and cast injurious reflections on all members of this place. For the member for Hammond, truth does not seem to matter. He seems more interested in cheap comments designed for a headline.

The Hon. P. HOLLOWAY: On a point of order, Mr Acting Chairman, I do not think that making those sort of comments about a member of another place is either in order or appropriate.

The ACTING CHAIRMAN (Hon.R.K. Sneath): Order! I understand that the Hon. Diana Laidlaw has given notice of a motion, at which time she will have the opportunity to

address those issues. If she can stick to the amendments tabled, that would be appreciated.

The Hon. DIANA LAIDLAW: In referring to the amendments, it is the practice that the party from whom the member is retiring nominates a replacement and that is endorsed under our rules and constitution by a joint sitting. That is the matter before us in terms of the amendments moved in the other place—it is related to that procedure.

It is important for me to note at this time the reason for this vacancy, which has given rise to these amendments and to highlight that, contrary to the statements made in the other place, I did not resolve to retire to enhance my level of superannuation; never did I do so because I was unlikely to get higher office; never did I do so for the money;—

The ACTING CHAIRMAN: Order!

The Hon. DIANA LAIDLAW: —never did I do so with disdain for the public interest.

Members interjecting:

The ACTING CHAIRMAN: Order! The next time the chair calls 'Order' I expect the Hon. Diana Laidlaw to take notice, and I expect the Leader of the Opposition to be silent.

The Hon. R.D. LAWSON: I will confine my remarks on this occasion to the amendments moved in the other place concerning the quorum of an assembly of members appointed under section 13 of the Constitution Act and also to the clause that seeks to validate decisions of previous assemblies. The amendment in relation to the quorum was made necessary by an opinion given by the Solicitor-General to the effect that section 13 of the Constitution Act contains no quorum specifications and, accordingly, in the view of the Solicitor-General it is arguable that all members of the assembly must be present for it to be valid. The Solicitor-General relies upon cases which do not concern parliaments, or bodies such as a parliament or similar to a parliament, and the Solicitor-General acknowledges that the common law principles in relation to this matter are not well developed.

Accordingly, he takes the view that it is better to take a cautious approach and to rectify the situation by statutory amendment. So far as the opposition is aware, it has never previously been suggested that the absence of a single member from an assembly of members held pursuant to section 13 would invalidate any decision or appointment made at the assembly. I have looked at earlier assemblies, in particular at those after 1985, when the section in its current form was enacted, the Solicitor-General having indicated that the preceding provision might not have the defect he has identified in the current section.

On 24 February 1987, there was an assembly of members for the purpose of appointing a replacement for the Hon. Brian Chatterton, who resigned. The minutes record that all members of the Legislative Council were present on that occasion and that all members of the assembly, except for eight named members, were present. There was no suggestion or argument on that occasion that the appointment of the Hon. Trevor Crothers was in any way defective. On 23 October 1990, there was another assembly to appoint a replacement for the Hon. Martin Bruce Cameron. On that occasion the minutes record that all members of the council were present and all members of the assembly, apart from two named members, were present. The Hon. Dr Bernice Pfitzner was appointed to fill the vacancy, again without question. It is fair to say that most lawyers, most members of parliament and indeed most members of the community would be surprised to hear the suggestion that the absence of one person from a meeting, especially a meeting for which a large number of persons—in this case, 69—were entitled to be present, would invalidate the entire proceedings.

I think that most people would also be surprised to learn that the proceedings of such an assembly could be frustrated by one single member adopting the position of withdrawing himself or herself from the meeting, thereby rendering the proceedings ineffective. It is a fairly extraordinary proposition. Section 15 of the commonwealth constitution deals with the filling of casual vacancies in the Senate. It provides that the houses of parliament in the state from which the senator is to be chosen 'sitting and voting together shall choose a person to fill the vacancy.' No quorum is there specified in the constitution nor is a quorum specified in the joint standing order of our parliament that deals with sittings for that purpose, joint standing order 16.

Once again I emphasise that there is no requirement for a quorum but I have never heard suggested that there would be any defect in the proceedings if one or more members was either unable to attend or refused to attend. It would be extraordinary to many constitutional lawyers, judges and politicians to know that in the case of the joint sittings of the federal parliament which followed the double dissolutions in 1974, and which gave rise to a huge amount of constitutional litigation in the High Court, the Australian Labor Party could have frustrated those proceedings by the simple device of withdrawing one of its members from attending. So, it is a truly extraordinary proposition.

However, the Solicitor-General in advice to the government has said that a cautious approach should be adopted and that the matter should be put beyond argument for the future, and also that any questions about previous appointments should be removed by appropriate amendment. The Attorney-General did provide to me, on a confidential basis, a copy of the opinion. I agree with the comment made in another place by the member for Mitchell that, in cases of this kind, it would be appropriate for opinions of that kind to be tabled in the parliament. I know that that has not always been the practice in the past, although I have seen recorded in *Hansard* opinions on constitutional matters given by Mr Malcolm Gray QC, then Solicitor-General, in relation to constitutional issues; indeed, the constitutional issues that arose in 1985 when this very provision under consideration was enacted.

At that time there was no discussion that I could see in any of the contributions made in either house about the necessity for any particular quorum and, more importantly, no suggestion that the attendance of every member would be required for the sitting to be a valid sitting. I should, incidentally, have noted that in the constitutional crisis of 1974-75 all members of both houses of the federal parliament were present at those sittings, that being a fact of historical record. However, the Solicitor-General has advised that a cautious approach be adopted. We certainly do not believe that we should be in a position where any doubt can be cast on the appointment of any person, either now or in the future, and the opposition was cooperative when this matter was first raised.

The government's proposed amendment was tabled in another place yesterday. We were given notice of that amendment on the afternoon of Tuesday of this week. The government's proposal was that the assembly have a quorum of 52 members, and an amendment to that effect was moved by the Attorney in another place yesterday. The number 52 was selected, I was told, as being 75 per cent of the aggregate numbers of both houses, 47 members of the assembly, 22 of this house, making 69 in all, 52 being 75 per cent, and that number being selected because the government took the view

that it would be inappropriate for an assembly of members to be comprised wholly of members of the House of Assembly when the matter to be decided at the assembly of members was a question concerning the composition of the Legislative Council.

That is a sentiment with which I personally agree. I should say that an assembly of members is not like a joint sitting of the parliament. It is not a sitting of either house: it is an assembly of people who happen to be members. In our constitution we had the opportunity to provide for a joint sitting, that being something well established in the federal constitution. However, what was decided was an assembly of members, and I emphasise that; that it has no function whatsoever other than to transact the business of appointing a person to fill a casual vacancy.

Given the short notice, I took the view that a more appropriate quorum than 52 would be 35, namely one-half of the members of both houses, together with the proviso that at least 10 members of this house be present at such an assembly in order to make it quorate, and that a similar number of members of the assembly also be present. One of the matters that I was concerned about in having a quorum as high as 52 was that, by the fairly simple device of having 17 or 18 members withdraw from an assembly or refuse to attend an assembly, its proceedings could be frustrated and that it would be a relatively easy matter for one of the major parties to summon 17 members to not attend an assembly.

In another place the member for Enfield suggested that another way of achieving the same result but avoiding the evil of making it possible for the assembly to be frustrated was to stipulate that there be no requirement that all members attend the assembly. Indeed, the honourable member's first suggestion was not to that effect; rather it was that the assembly be constituted of as many members of the two chambers who are present, and voting by a simple majority. His proposal was subsequently refined to the amendment that was put by him and adopted by the government in another place.

Once again, we are interested in removing uncertainties. We are anxious to ensure that the replacement for the Hon. Diana Laidlaw, after her foreshadowed retirement, is appointed at the earliest opportunity. We believe that that can be accommodated by the passage of the amendment moved in another place. However, it is undesirable for these matters to be rushed in this way, and we must bear in mind that the government introduced its amendment in the other place either on Tuesday night or yesterday. On the floor last evening, the member for Enfield suggested an amendment, and the government embraced that proposition. As I understand it, there was certainly no discussion with minor parties or Independent members in this chamber.

When we are doing something as serious as amending the constitution, there should be time for mature reflection because, in the view of the Solicitor-General—and members should bear this in mind—the amendment passed in 1985 had the effect of removing at least one argument that not all members were required to attend the assembly. The validation provision, which appears as proposed new clause 3, provides:

> Any decision made under section 13, made before the commencement of this section by an assembly of both houses, cannot be called into question on the ground that not all members of both houses were present at the meeting of the assembly at which the decision was made.

Once again, whilst we remain to be convinced that this is absolutely necessary, we believe that a cautious approach is appropriate.

The Hon. A.J. REDFORD: I must say that I am absolutely bemused by this. I did not listen to the debate, but I read through *Hansard* this morning, and I thought seriously about the fact that I am surrounded by illegals. Based on the advice of the Solicitor-General, the Hon. Paul Holloway, the Hon. Bob Sneath, the Hon. Terry Cameron, the Hon. Kate Reynolds, the Hon. Caroline Schaefer and the Hon. Mike Elliott all found their way illegally into this place. I was not part of the inner circle where the Solicitor-General's advice was shared furtively and handed backwards and forwards between the Attorney and the shadow attorney-general. None of the rest of us will see this highly significant document that took up an hour and a half of everybody's time last night in another place. It has also taken up not an insignificant amount of time in this chamber this afternoon, and I propose to take up a little more time dealing with it now.

How lucky we are to have a Solicitor-General who has created a problem and has immediately solved it, with some assistance from the member for Enfield. Thank God for the member for Enfield! Around the corridors of parliament today everybody is asking why he is not the Solicitor-General. He fixed the problem in an instant, and he is to be congratulated.

I share my misgivings about the legal advice given by the Solicitor-General in this case (it is absurd), but we will not vote against the clause, and we will participate in this process. The Hon. Robert Lucas raised a very pertinent issue: if the Solicitor-General is correct in his fear, is members' superannuation at risk? Do we have to backdate or serve additional time to qualify? There is no end to the problems that the Solicitor-General has stumbled over. Fortunately, with help of the member for Enfield, he has come up with a solution to our problem, and I am sure that many of us will sleep easy tonight following the passage of these extraordinarily important amendments.

The Hon. Caroline Schaefer: And momentous!

The Hon. A.J. REDFORD: Yes. I must admit that, when the Solicitor-General was first appointed, I was critical for a number of reasons. Today, however, he has thought of the Hon. Angus Redford and others and has said, 'I don't want them to have sleepless nights over whether or not all their colleagues are here legitimately.' Aided and abetted by the member for Enfield (and thank God for the member for Enfield!), we are all now legal. I cannot thank the Solicitor-General enough for his extraordinary insight into the operation of the parliament.

I will make a few more serious comments. The Speaker spoke about the fact that the legislation might be challenged, might go to the High Court and so on. I know that, from time to time, the member for Hammond thinks of himself as a bit of a bush lawyer. With very rare exceptions, the courts always refuse to interfere with the internal workings of parliament. Very rarely will they look behind legislation to see whether the procedural requirements for its passage were complied with, and they do that for good reason. I am certain that they would not interfere in the case of legislation that has been passed. Can you imagine! We might have to go back and redo the whole statute book if we are not careful and do not follow the Solicitor-General's advice!

The issue of the quorum can very easily be fixed by standing orders, by a set of rules or, as the Clerk indicated to me earlier, it can easily be stated in the proclamation that is

issued by the Governor on the advice of the Premier, with the assistance of the Clerk of the house.

I will also comment on some other matters that were raised in the debate last night, and my comments are directed to the leader of this council, who is not only the leader of the ALP and of the governing party in this place but is also the leader of this place. I hope that the leader is listening to what I am saying. When the member for Hammond described this place as being 'rotten to its core', the leader was singularly silent in its defence. I find that utterly objectionable. Why is it continually left to the President to defend this place, its privileges and rights? Why is the leader (as we call him) of this place so silent when these objectionable attacks are made?

The leader can laugh, but the member for Hammond described this place as 'rotten to the core'. He said:

> It is every bit as rotten as the rotten boroughs of the 1700s and 1800s in the United Kingdom.

Why is the leader not defending this place? The member for Hammond called the Hon. Nick Xenophon and the Hon. Andrew Evans rotten. He called me rotten, and he called the leader's colleagues rotten.

The Hon. P. HOLLOWAY: I rise on a point of order. The Hon. Angus Redford is attributing motives that are not correct.

Members interjecting:

The Hon. P. HOLLOWAY: The member is accusing—

Members interjecting:

The Hon. A.J. REDFORD: I will test this.

The ACTING CHAIRMAN: Order! The Hon. Angus Redford will confine his remarks to the amendments.

The Hon. A.J. REDFORD: I will. I am talking about an amendment that deals with the selection and election of people to this place, the impact of what happens in this place, the validity of legislation that may or may not have been passed in this place and comments that were made, without objection, by another member in another place in precisely the same debate. I am concerned that, when an honourable member in another place describes this place and, by implication, each and every one of us, as 'rotten to the core,' there has been a failure on the part of the leader of this chamber to defend this chamber, and I think that is disgraceful.

The ACTING CHAIRMAN: That last comment is irrelevant to the amendment. I ask the honourable member—

The Hon. A.J. REDFORD: I will test this; we will vote on this.

The Hon. P. HOLLOWAY: Mr Acting Chairman, I draw your attention to standing order 188, which provides:

> No member shall quote from any debate of the current session in the other house of parliament or comment on any matter pending therein unless such quotation be relevant to the matter then under discussion.

The Hon. R.I. Lucas: This is the matter under discussion.

The Hon. A.J. Redford: It was relevant there and it is relevant here.

The ACTING CHAIRMAN: Order! I do not see the honourable member's comments as relevant to the amendments. If we could stick to the amendments it would be jolly helpful.

The Hon. A.J. REDFORD: As the President has said on many occasions, 'They cannot take the lash.'

The Hon. P. Holloway: What, the wet feather lash?

The Hon. A.J. REDFORD: Well, why do you keep standing up and taking points of order, because you were an utter and complete failure at defending this place, and the failure to take—

The ACTING CHAIRMAN: Order! As the Acting Chairman, I have already said that, in my opinion, the honourable member's remarks are not relevant to the amendments. If we can stick to the amendment it would be greatly appreciated.

The Hon. A.J. REDFORD: Mr Acting Chairman, if you are ruling me out of order I will take objection to the ruling and we will deal with it according to the standing order, because what I am saying is absolutely pertinent to this bill.

The Hon. T.G. Cameron: If he can call us rotten to the core, we can call him rotten to the core, and we would probably be more accurate than him.

The Hon. A.J. REDFORD: He called the Legislative Council a 'rotten borough', that is what he called it.

The ACTING CHAIRMAN: Order! I said that, in my opinion, those comments were irrelevant to the amendments, and if the honourable member could stick to the amendments it would be much appreciated.

The Hon. J.F. Stefani: He should be made to apologise and withdraw.

The ACTING CHAIRMAN: I do not think that this is the time and place to do that.

Members interjecting:

The ACTING CHAIRMAN: We are debating—

Members interjecting:

The ACTING CHAIRMAN: Order! We are debating the amendments and we will stick to debating the amendments.

The Hon. A.J. REDFORD: Yes, and we are debating the amendments. Mr Acting Chairman, if you rule me out of order I will move a motion.

The ACTING CHAIRMAN: Perhaps the honourable member ought to listen to what I said. I said that the honourable member's comments were not relevant to the amendments, and if we could stick to speaking on the amendments it would be greatly appreciated.

The Hon. A.J. REDFORD: Well, I will come at it another way. We are talking about a piece of legislation that deals with the selection and election of members to this place, and how this place operates and the validity of acts and circumstances in which this place is engaged. In another place yesterday a number of very derogatory comments were made about this place, and think I have made my point in that respect. What I will say is that I am disappointed that the leader of this place has done nothing to defend this place. I have made that point and I will not repeat it.

This whole issue and the way in which it has come about and the way it has been dealt with has been absolutely absurd: the opinion; the response to the opinion; the fact that the member for Enfield saved the day with his last minute amendment; and the suggestion that some of us might even be in here illegally, which is absolutely absurd. One might think that the next time the Solicitor-General pokes his head out of the bunker we might get something more sensible.

The Hon. R.I. LUCAS: I speak briefly in support of the comments made by my colleagues on all aspects of the matter before us. I express, also, my concerns at the process that has resulted in our having to consider this matter this afternoon. I know that we are going to seek leave to report progress and to conclude the debate on Monday week. The Hon. Mr Lawson has raised a number of issues and that will give all of us an opportunity to reflect on matters that are before us. Also, Mr Chairman, as you know, notice was given by my colleague the Hon. Diana Laidlaw about a matter on which

she and a number of my colleagues (and I share their views) hold strong views, and we will have an opportunity on that occasion to express our strong concerns about some comments that were made during this debate.

We will approach that during that substantive motion, which will be moved by my colleague the Hon. Diana Laidlaw. In relation to the new substantive issue that has been raised by the Solicitor-General and now by the government, last night was not a very edifying experience in terms of the conduct of debate in another place. There was, indeed, a real row in the government and there was a row in the House of Assembly in terms of the conduct of proceedings on this matter. An amendment was being moved by the government, which had been endorsed, I assume, by the government, and I assume also by the caucus, although I am not aware specifically as to whether the caucus had supported the provision.

A foreshadowed amendment was being moved on behalf of the Liberal Party in the House of Assembly. I understand a row ensued when the member for Enfield moved his own amendment. He was vigorously opposed by members or ministers of the Rann government in the early stages. He was advised formally and informally that he did not have caucus approval for the amendment he was moving. I am sure that, Mr Chairman, you will know the procedures this government must follow in terms of moving amendments or policy positions.

The member for Enfield did not have the support of the caucus, and senior members of the Rann ministry informed the member for Enfield that he had no caucus support for moving the amendment, and then it was on. There was some indication from members of the opposition that the member for Enfield's position might be supported. Eventually, the government did not proceed with its own position and ended up supporting the amendment that is now before us in this council that had been moved by the member for Enfield.

I am going to be guided, as on most occasions, on this issue by eminent legal counsel available to the Liberal Party, the shadow attorney-general. However, as a non-lawyer, I think that we are confronted with a bit of a nonsense in that we are told—and I will not go through the legal argument—that we must have a quorum. There are two genuine endeavours to construct a quorum, and what comes out of the debate in another place is basically something which says, 'Well, we do not need one.' You have the Solicitor-General—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, the Solicitor-General said you have got to have a quorum.

Members interjecting:

The CHAIRMAN: Order! The Leader of the Opposition needs no assistance.

The Hon. R.I. LUCAS: The Solicitor-General, as I understand it, has advised that we must have a quorum. As you know, Mr Chairman—and you will correct me if I am wrong—the quorum for Legislative Council proceedings is 10 including the President. I am not sure, but I assume the quorum for the House of Assembly is approximately half the members of that house. Based on his past experience, the Leader of the Government will know what the quorum for the House of Assembly is—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is 24. The Solicitor-General says we should have a quorum and then, as a result of the row that ensued in the House of Assembly, a position emerged where, as I understand it, three members out of 69 can turn up in an Assembly of Members in essence to elect a new member. Given the advice the government has received, it seems an unusual process to be confronted in the end with a set of circumstances where we are saying by way of legislative amendment that three out of the 69 are sufficient to elect a member. As I understand it, those three can include no members from the Legislative Council at all—government, opposition or anything. In fact, it could be three members of the Labor Party from the House of Assembly—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Leader of the Government with his vast past experience in the House of Assembly and having consulted with the Clerk of the Legislative Council tells me that the quorum is 17 plus the Speaker in the House of Assembly—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is 17 including the Speaker and 10 including the President in the Legislative Council; I know my Standing Orders. Anyway, what we have now is three members out of 69. They could be three Labor lefties, members of the member for Elder's left caucus faction within the Labor government who could turn up at the Assembly of Members and vote for whomever they so wish under the provisions that would bind them. But, as has been outlined by the shadow attorney-general, this issue will not be delayed unnecessarily by members of the Liberal Party in this chamber.

The collective wisdom—if I can use that phrase—of members of the House of Assembly has delivered this proposition to us. The shadow attorney-general has indicated some of his concerns in relation to it. The Legislative Council will pause and reflect on this over the next eight or nine days, and we have given an undertaking to ensure, at least from our viewpoint, consideration and passage by Monday week when next we convene. That will give sufficient time for all the processes to be followed to allow the new member to be elected by an Assembly of Members upon the retirement of my colleague the Hon. Diana Laidlaw.

The Hon. P. HOLLOWAY: I wish to address one point that was raised in the debate by a previous speaker. I do not necessarily agree with everything that was said in the other house during what was a four or five hour debate, but I do not think it is my job to stand up here and point by point rebut every argument made by every other member in the House of Assembly. I may not agree with what every member said in that chamber, but what is important in this debate is that we deal with it. It is probably appropriate to put on record the background of how this bill came about.

The Hon. Diana Laidlaw quite reasonably sought to change the constitution to make the language gender neutral. The government agreed with that and we have done our best to facilitate that, and this issue came out in the wash. To turn it into the sort of debate it has become does not reflect well on those members who have tried to turn this into a political issue. It all came about because the government has been trying to facilitate one of the longstanding members, now retiring, in what we think is a reasonable way. Perhaps it is best to leave the debate there and, hopefully over the next nine or 10 days, we can resolve this matter to everyone's satisfaction. I indicate that I will shortly move that progress be reported.

The Hon. R.D. LAWSON: I should have mentioned one matter in my contribution in relation to the amendment moved by the member for Enfield to the effect that there be no requirement that all members of both houses attend an

Assembly of Members. The advantage of that amendment is that it merely declares what everyone has always thought to be the position: namely, that there is no requirement that everyone attend. To that extent it is the minimalist position. The government's proposal to have a quorum of 52 was a significant move; our suggestion of a lesser quorum which had to comprise some members from both houses was also I think a fairly minimal amendment, but the most minimal of all is simply a declaration of what everybody believed the current provisions to be. That is why we were inclined to support it and remain inclined to support it but wish to have all the ramifications fully examined.

The Hon. J.F. STEFANI: I was not going to enter into this debate but, having heard some of the issues that are being raised during the debate, I feel compelled to say a few words about this matter. When I read the amendment moved by the government, it strikes me as an amendment that provides for no numbers being present; that is, you may have three, four or 10 members present to elect a person to what I as a member of this place consider to be an important position. In any event, if we have no number limitations it should by definition be the function of this place not to be dependent upon the House of Assembly members.

If this council is an independent chamber, then it strikes me that members should be able to be elected, certainly in a joint sitting, but without number limitations and perhaps with an appropriate number from this chamber being present. I make those comments generally. Perhaps if I had the inclination I would move such an amendment to ensure that in its process this chamber, even given the way it has been described by others in another place, has the ability to function as an appropriate chamber to deliver not only the election of its members but also appropriate legislation and its very valuable judgment about amending legislation, as it has over a number of years since I have been here; and to improve the legislation which has been delivered to this place by another place.

Having made those comments I want to say that, if we hold a joint sitting for electing members, surely it would be appropriate that the election of people to such a high office be conducted by at least a quorum. If we cannot have a quorum without shenanigans or sabotaging the process, I would trust the appropriate numbers—being a quorum from this place—to effect the election of members of this place in an appropriate manner.

The CHAIRMAN: Those are matters which you may wish to consider in the next seven days and bring back appropriate amendments. I would hope that all members of both houses of parliament would understand their duty to the institution of parliament and that we would have a full muster on all occasions unless there are exceptional circumstances. The Attorney-General has pointed out that there is an anomaly in the law, and we need to address it.

Progress reported; committee to sit again.

STATUTES AMENDMENT AND REPEAL (NATIONAL COMPETITION POLICY) BILL

Adjourned debate on second reading.

(Continued from 12 May. Page 2261.)

The Hon. IAN GILFILLAN: I indicate that the Democrats support the second reading of this bill. This bill is performing a much needed housekeeping task, sweeping away the remnants of yesteryear in keeping with the national policy agreements whereby all jurisdictions have an obligation to review and, where necessary, reform legislation which contains restrictions on competition. I am aware of my obligations and role as a member of the Legislative Review Committee, and from the work that we do on that committee—looking at regulations and the impact of legislation—I do have some concern that we appear, in this instance, to be dancing like puppets for the national competition policy payments. Although in this particular case, I have no objection to the contents of the bill, I believe it is important for South Australia to be sure that the things that we give up are not more valuable than the payment we receive.

I take this opportunity to refer to the shop trading hours about which I believe that the potential detriment to the society and small business in this state could be far more expensive not necessarily only in terms of dollars but what we may lose in this rather arbitrary determination by the national competition authority as to whether or not the payments are justified. There is an underlying assumption that all competition is good, and this is too dogmatic for the Democrats' position. The government has a clear role to play in balancing some extremes of rampant market forces with an eye to outcomes for all South Australians. Once again, I cannot help but be reminded of the debate and battle currently raging as to whether we will be pushed to total deregulation of our shop trading hours.

In indicating our support for this bill, the contents of which are unexceptional, the fact of having to be prompted, pushed and bullied into passing legislation because of threats from the national competition authority that determines what payments we may or may not get, I find very demeaning and belittling of our independence as a state to make decisions which we regard as best for the people of the state. With those few remarks, I indicate support yet again for the second reading of this bill.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): As there are no other members wishing to speak on this bill, I thank members who have contributed to the debate and for their indications of support.

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

GAMING MACHINES (EXTENSION OF FREEZE ON GAMING MACHINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 May. Page 2331.)

The Hon. DIANA LAIDLAW: I do not support the proposal outlined in this bill to extend the freeze on gaming machines. I indicated in response to a private member's bill introduced by the Hon. Nick Xenophon when I spoke on 2 April 2003 that I did not support his proposal, which was also to extend the freeze on gaming machines. I said at that time that I understood that the government proposed to introduce a bill to extend the freeze on poker machines and, if it did, I would oppose that measure equally. I am simply doing today what I outlined on 2 April. I do not want to hold up the council having put my comments on record previously, but on 17 May 2001, when the statutes amendment gaming bill was introduced by the former government, I supported that bill only at the request of the premier of the day in terms of having a cap on poker machines.

I have always supported the introduction of poker machines into this state. I take extreme exception to the fact that a two-year time frame was provided for a statutory authority and paid officers to prepare a report and to have that matter considered again by this parliament. A two-year time frame was generous, and I am not impressed that a statutory authority and paid officers should ignore the belief of the parliament when, if they had read the debate, they would have understood that many of us had supported that freeze with a great deal of unease. I do not like being taken for granted and I certainly do not like the fact that officers of a statutory authority would be slack in terms of the timetables that they had been set by this parliament, and therefore slack in their regard to this parliament. I have one matter on which I might be prepared to temper my view; that is, the issue that has been raised in terms of the North Adelaide Football Club and clubs generally with regard to poker machines.

It has been put to me that I should consider moving an amendment to lift the freeze on poker machines in clubs but to continue the freeze on poker machines in hotels. I indicate today that I will be considering that option further over the next week and, if I do decide to move an amendment in those terms, I will give the government and all members plenty of time to consider that proposition.

The Hon. CARMEL ZOLLO: I add my support to the bill seeking to extend South Australia's freeze on poker machines for an additional 12 months until 31 May 2004. I have consistently supported freezes to address the minimisation of the harmful effects of gambling. I realise that it is not the entire answer for people who have a gambling addiction, but it is a very good start. This measure will allow the Independent Gambling Authority more time to properly complete its inquiry into gaming machine numbers in this state.

With the proliferation of gaming machines in South Australia, we have naturally seen a greater number of people being addicted and stress being placed on those people who assist them—those counsellors who truly understand the enormity of gambling addiction, what it can do to the person, to the family and to the wider community. As the minister said in the other place, the IGA now has a voice from those who work at the coal face, and it is important that that consultation continue.

I look forward to the completion of this long-awaited inquiry, which, apart from looking at harm minimisation, is also investigating the options for managing gaming machine numbers in South Australia. No doubt the industry itself will welcome the outcome of the inquiry, as it will see certainty for that industry, as well. I add my support for this legislation.

The Hon. KATE REYNOLDS: The Australian Democrats are prepared to support this bill to extend the freeze on the number of gaming machines to 31 May 2004, but we take this opportunity to put on the record our disappointment that the IGA has not yet been able to formulate its recommendations. We acknowledge that the IGA was established by the previous Liberal government in 2001 without terms of reference, that terms of reference for this inquiry into the management of gaming machine numbers were not provided until June 2002 following a change of government, and that a period of consultation with interested parties was required.

However, given that a freeze had been instituted by the previous government and extended once already, and given the availability of properly researched and documented information about the seriousness and extent of the nature of problem gambling, the high level of public concern about the issue, the cost to individuals, the cost to the community and the cost to the state, we hoped that more progress could have been achieved by now.

I note with interest the Minister for Gambling's comment made yesterday in another place that problem gambling is a massive cause of social harm in the community, so we will support a further freeze on this occasion on the assumption that it will be the last. However, following receipt of the IGA's report in September, and in light of the minister's remark yesterday, we expect that the government will take action as a matter of priority on those recommendations designed to address the harm caused by problem gambling, including the issue of accessibility as a key driver of problem gambling, before it tackles other industry issues.

The Hon. A.L. EVANS: I support this bill on behalf of the Family First Party. There is currently a freeze on the issue of gaming machine licences if the application was made on or after 7 December 2002. That freeze is set to expire on 31 May 2003. This bill operates to amend the sunset clause and extend the freeze for another 12 months to 31 May 2004. I understand that, if this bill is passed, it will lock in the number of poker machines in South Australian pubs and clubs at the current 14 804.

I also understand that the Independent Gambling Authority has needed more time in order to complete its inquiry into gaming machine numbers in the state. The report is scheduled for completion in September this year, and I will be very interested to examine its findings in due course. I trust that any inquiry made by the IGA will make an assessment of the social impact of poker machines and will evaluate the harm in existing venues. The authority should report on:

- the number of poker machines already kept by each hotel or club and by other venues in each local area;
- the incidence of gambling problems in the local community;
- the likely consequences on local business;
- the availability of services for people with gambling problems within the local community;
- the opportunity for public comment.

I believe that a one-year freeze is inadequate to properly assess all these issues and to develop an integrated strategy of harm minimisation, but I intend to support this bill because some form of freeze is better than none. It is devastating to hear of the impact that poker machines have had on families in our state. Poker machines are the form of gambling associated with the highest percentage of people with gambling problems. It is therefore very important that restraint be made on their numbers, but a freeze of only one year is certainly not the solution.

It saddens me to think that 16 per cent of the state's budget of $7 billion comes from gaming and other forms of gambling. Treasury coffers are being filled at the expense of the welfare of families. According to figures released by the Liquor and Gaming Commissioner, losses for the first six months of the 2002-03 financial year were $335.5 million, which is up 11 per cent on the first six months of 2001-02. I understand from the Hon Nick Xenophon that total losses projected forward to 11 per cent will see pokies losses exceed $673 million by 30 June.

The big losers are not just individuals caught up in addiction but their families. Many a time the money that is being spent on poker machines is not idle cash sitting around

the home. It is a weekly budget allocation. It is family savings. It is money derived from pawning whatever the particular family member can get their hands on. Not only is there pressure of a financial nature placed on the family but there is the pressure of seeing family members caught up in an apparently uncontrollable addiction.

It saddens me to think that the increase in government revenue has come at such a great cost to our community. Families are suffering. A freeze goes only part of the way. The number of poker machines needs to be wound back and eventually completely wiped out. It does not matter how much we will lose in state revenue. It does not matter how much various lobby groups apply their pressure. We have an obligation to protect individuals and their families from this harm.

The Hon. T.J. STEPHENS: I rise to speak against the freeze on poker machine numbers in this state. I am against the freeze because of the economic consequences that will continue as long as the freeze operates. Let me address that point first. I want to emphasise and enter into the public record again the importance of a strong, vibrant hotel industry. In South Australia, poker machines have produced through hotels over 4 400 jobs in four years. They have provided $463 million for infrastructure upgrades on premises, and pokie revenues make up the vast majority of the $9 million that is spent on philanthropic activities such as sporting clubs and charities.

These statistics show us that, while pokies do supply a large amount of tax revenue to government, they also provide a substantial proportion of the hotel industry's contribution to local community activities. Australia is often criticised for the fact that it lacks a strong philanthropic tradition. Let me say that philanthropy from successful businesses is much easier to encourage when we allow for the businesses to be successful. We cannot do that when we restrict their trade.

Hotels are faced with having to increase the cost of their meals and drinks because poker machines provide for cheaper meals and drinks. That would further hurt an industry that has had its fair share of pain. It would turn away those people who enjoy a social drink down the pub after work. For the same reason as a cap is ineffective in stopping problem gambling, it would not affect the people who choose to drink and drive regularly. Businesses that already have machines are unfairly protected against competition from hotels that do not have any. They have a higher value and are more saleable than those that do not have machines.

South Australia has one of the lowest number of machines per capita in the commonwealth. New South Wales and the ACT have over 20 machines per 1 000 people; Queensland has 11.4 machines per 1 000; and South Australia has 10.7 machines. Yet, if we look at Victoria, where the rate is 7.7 machines per 1 000 people, we see that the level of expenditure per machine is nearly double. This suggests that the lower the rate of machines the higher the income they generate. I am not sure that that is the real reason why the figure doubles, but apparently there is no correlation between capping the number of machines and a reduction in the usage of gaming machines.

Remembering that New South Wales has nearly three times as many machines per capita as Victoria, people in both states spend nearly the same amount per year on gambling—between $900 and $1 000 per head. In South Australia we spend half that, so the number of machines to my mind has no relation to the levels of gambling. I acknowledge that some people have a problem with gambling. However, these people represent a very small percentage of the population and, as I have demonstrated, the continuation of a cap will not help them.

A school of thought states that by limiting the number of machines you will make problem gamblers less willing to give up their machines because they fear they will not get them back, thus denying them the chance to have a break from the machine. Whilst that theory must be further researched, I contend that gambling addicts by definition will not be deterred by a restriction on machine numbers, because they will go to extraordinary lengths to find and use these machines. Intuitively, simply capping the number of machines will not help problem gamblers. It merely masks the problem and gives us as policy makers a false sense of accomplishment. We need to address this problem at its root and not its effect.

Instead of spending money on inquiries into the effect of gaming machines and problem gambling, we should research the psychological reasons behind compulsive gambling behaviour and how to address it before we get to the stage of capping machine numbers. The every day gamblers, who may have a flutter once in a while or so, are punished not for their own actions but for somebody else's, just as the hotels that have gaming machines are being punished for someone else's actions. If I want to use a machine, I should not have to go all over Adelaide to use one.

People who need help should be helped, but people who have no problem with gambling should also be given so-called help. People should be free to choose their pastimes, and businesses should be free to operate what is still a legal activity. Ultimately, people who have a problem still make a personal choice to gamble. They decide to go to machines and decide not to seek help. Limiting the number of machines will not affect this fundamental fact. If we want to help these people, as a parliament we should be finding ways of encouraging them into self help and not punishing those who merely want to have a bit of fun.

I make the point that this cap is ineffective in dealing with the problem and should be abolished. Instead of this, I suggest we look at ways of getting problem gamblers to help themselves rather than our trying to impose a solution upon them which non-gamblers will naturally resent. I will not support this bill.

The Hon. NICK XENOPHON secured the adjournment of the debate.

PROHIBITION OF HUMAN CLONING BILL

Adjourned debate on second reading.

(Continued from 13 May. Page 2284.)

The Hon. D.W. RIDGWAY: I rise to speak in support of the bill, which allows research involving human embryos, and I also support this bill in its prohibition on human cloning. I appreciate that for some members of our community the religious, ethical and moral implications of the bill in allowing research involving human embryos are highly contentious. This research offers enormous potential for improving human health and we should allow it to go ahead. In the past few years there has been much talk about issues involving cloning and stem cell research. Much of the talk has been dominated by fear and hype, without people necessarily having all the information. The media and the

public have speculated about potential outcomes of current research, from recreating the family pet to the cloning of already deceased humans.

This legislation is not about creating designer babies or perfect humans, or playing God. This sort of conjecture is pure fantasy at this stage and has no basis in reality. In reality, the medical and scientific communities are far from able to create such outcomes. The need to undertake basic research would allow them to understand the processes that govern the differentiation of different cell types from their earliest forms as stem cells.

Stem cells are like blank human cells and can turn into any cell in the human body when given the right chemical cues. There are two types of cells used in stem cell research: stem cells derived from human embryos and those taken from adult human bodies. In the earliest stages of development, the whole human body is created out of stem cells—the embryonic stage. The adult stem cells in our bodies are like spare cells in that they are able to step up when the body is in need.

Through processes that scientists do not yet understand, they are able to change into specific cells to assist tissues or organs to regenerate or repair. It appears that the same control mechanisms that regulate the differentiation of cells in adults also operate in the developing foetus, which makes the prospects for brain and other organs and tissue repair a realistic outcome. Doctors have been using cells and organs from humans to treat illness for many years. The process of extracting bone marrow (which contains blood forming stem cells) for the treatment of leukaemia has been practised for over 40 years. Organ transplants are accepted medical practice to such an extent that, when we collect our driver's licence, we are asked whether we would like to be an organ donor.

Doctors have also been able to manipulate the human reproductive process for many years. The first test tube baby conceived through IVF technology, Louise Brown, will celebrate her 25th birthday this year. Medical technology in the use of the human body—both dead and alive—as a resource for the treatment of illness or disease of another human is part of accepted medical practices in our community. Should we suffer an illness or disease, every one of us could expect to be given the option to pursue treatment through these practices. It is entirely up to individual choice. This is because we live in a society that supports the existence of many different choices and opinions on many issues.

It is a natural human reaction to want to ease the pain of those close to us who have a serious illness, disease or disability. As a community, it would be wrong for us to close the door on research that could significantly improve the quality of life of those who are suffering. Given the possibility of an opportunity to end this suffering, it is in the interests of all of us to support, or at least not prohibit, the research that has such enormous long-term potential to relieve human suffering. Those who are against the use of human embryos and stem cell research often state that, instead of using embryos, researchers should direct their energies into studying and understanding adult stem cells found in small quantities around our organs.

In evidence given to the commonwealth parliamentary committee into human cloning and stem cell research, numerous scientists pointed out that, besides the fact that adult stem cells are difficult to isolate and seem to differentiate into fewer cell types than embryonic stem cells, they have a shorter life span in culture and contain a larger proportion of DNA abnormalities caused by the ordinary exposure to sunlight and toxins during the course of a lifetime. As such, adult stem cells in comparison with embryonic stem cells are less reliable as research subjects. Perhaps the most significant argument in support of the use of human embryos is that, to make use of any discoveries in the course of adult stem cell research, the scientific community needs to understand the basic research at the embryonic stage, to understand the processes that cause the cells to change into one cell or another. This basic research needs to be and can only be gained through studying the human embryo.

At present there are about 60 stem lines internationally available for use in research, all of which have been derived from human embryos. These embryos and those proposed for use under this bill were embryos left unused by parents wishing to conceive through the IVF assisted reproductive processes. Under current practice, these embryos are stored with the consent of the potential parents for a statutory period of five years, after which time they are destroyed. The fact that these embryos must be destroyed after a statutory period is an important factor in my consideration of the issues behind this bill. In 1998-99, the number of embryos in storage in IVF clinics around Australia was approximately 65 000. The number of embryos in storage in 2003 would be equal or greater.

If they are not used, they are destroyed once the statutory period is concluded. Provided consent is obtained from the potential parents, I support the concept that these embryos—destined for death anyway—should be used to assist the greater good. Legislation can only keep up with science that is known, and it is likely that many revisions and further bills will need to be considered in this parliament as new science arises. In the last few weeks, scientists have observed mice stem cells spontaneously differentiate into mice reproductive cells, or mice eggs. In one case, a mouse egg that formed during the course of a research observation went on dividing and formed into an embryo, even though no sperm was added by researchers.

This discovery raises a new issue in the debate about stem cell research involving human embryos. All reproductive oocytes, or eggs, in the human female body are created and stored in the ovaries prior to birth. They are created from stem cells at the earliest stage of foetal development in much the same process that researchers are now able to observe in the mouse cell research, outside the womb. When researchers are able to stop ongoing division, as observed in the case of mouse cells, what they have is a new reproductive cell or a newly formed egg cell, in its own right produced from a stem cell like any other egg in the natural process. This egg could potentially be fertilised outside the womb by in vitro fertilisation using donor sperm.

Through this bill, we are not opening the floodgates to the legislation of unethical scientific practice. We are beginning the process of considering, debating and regulating the human dimensions of these new practices. Almost all new medical technology has initially aroused fear, speculation and controversy. From blood transfusions to gene therapy, all new innovations have been difficult for people to accept. Those who stand to end their suffering through innovation do not find them difficult to accept: they welcome them. As far as stem cell research is concerned, we do not know yet what benefits will be achieved. We need to undertake the research to see what the science discovered allows us to do.

What is certain is that, at the very least, this research will give researchers insights into the mechanisms of cell and tissue development from the embryonic stages forward. It

follows that this information could have a considerable impact on the treatment of diseases that result from abnormal development. If researchers were able to master the process of differentiation, this potentially could provide a source of cells for tissue transplantation and cell replacement. It could also provide insights into the normal triggers of cell replication and death, which would be relevant to the understanding of the processes of cancer and ageing. There could be many different applications of this research in ways that are not expected, such as potential spin-offs in the long-term picture in agriculture and biotechnology, with applications for the treatment of plant and animal diseases.

If we are able to think through these issues with a clear head, science will be directed down avenues that will allow for the achievement of basic research and medical goals, rather than the more far-fetched concepts of human or animal cloning. When we have the science we can consider the legislation. At the current stage of research there are more questions than answers, more hype than reality. The breakthroughs, if they come, will come in the next five or 10 years. We should not shut the door to this research because the issues are too difficult or the fear of negative uses of this knowledge is too strong. We should open the door to these new scientific processes slowly and carefully and monitor each step of the way.

I propose that we in this parliament follow the model of the French parliament and undertake to place a five-year sunset clause for automatic review of all biotechnology legislation. In this way, we would be able to amend and change our legislation in line with new discoveries and applications in medicine. In Adelaide we already have two leading research groups undertaking stem cell research, at the University of Adelaide and at Bresagen, a biomedical research company. It is a credit to our world class scientists, researchers and specialist doctors that we have a history of medical innovation in Adelaide, and in Australia. I support the work of these scientists and I support the interests of their careers and the reputation of our research community.

I believe that the potential benefits of this research are enormous, and I support the bill on the basis that we as a community seek to end human suffering through illness and disease, and that we allow others to pursue the medical practices of their choice. I support this bill and the bill prohibiting human cloning.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The Prohibition of Human Cloning Bill and the Research Involving Human Embryos Bill have been introduced into the South Australian parliament in order to meet the terms of the COAG agreement of 5 April 2002, whereby it was agreed that the commonwealth, states and territories would introduce nationally consistent legislation banning human cloning and establish a national regulatory framework for the use of excess embryos. The issues that these bills encapsulate have been debated at length both in various parliaments throughout Australia and in the wider community.

Voting on these bills is a matter of conscience for government members, and it is important to place on record my own position in relation to these complex matters. The National Statement on Ethical Conduct in Research Involving Humans, released by the commonwealth government in June 1999, defines ethical conduct as follows:

> Ethics and ethical principles extend to all spheres of human activity. They apply to our dealings with each other, with animals and the environment. They should govern our interactions not only in conducting research but also in commerce, employment and politics. Ethics serve to identify good, desirable or acceptable conduct and provide reasons for those conclusions.

Members of parliament are assigned the role of making ethical decisions on behalf of the community and, while this can at times be a relatively uncomplicated process, it often requires significant deliberation. For example, it is clear that the issues of conducting research on human embryos inspire a great deal of conflict between certain sections of the community, while the proposal to ban human cloning receives almost universal support. In relation to cloning, I agree that human cloning is innately wrong and should be banned. Internationally, human cloning has been rightly condemned.

The objections to it are generally well-known and cover such issues as opposition to scientists playing God, concern about 'designer babies' and the possibility of creating a baby to order, and the 'commodification' of children. A report of the House of Representatives Standing Committee on Legal and Constitutional Affairs on issues of human cloning and stem cell research, released in August 2001, noted:

> Australian scientists do not approve of the use of cloning technologies to create a whole human being or wish to be involved in such work.

The simple fact that so little is known about the risks of human cloning make it a difficult proposition. I would like to give some information, given the particular portfolio that I hold, in relation to animal cloning. I feel that it is useful to differentiate human cloning from the cloning of animals, where the emphasis has changed from the generation of cloned animals per se to focus more on cellular and developmental biology, working at the embryo/tissue culture level with a stem cell-like therapeutic focus, rather than producing live cloned animals on the ground. That is not to say that there are no reasons in the livestock area for replicating elite or endangered animals by this technology in special situations, but less and less work is focused on this outcome.

No such opportunities arise with human cloning, which should be targeting only the therapeutic outcomes. Animal cloning is therefore an important tool or technique with application in numerous fields. These include:

- as part of a technical or farming system to accelerate genetic gain for increased production, quality and other desirable trait characteristics and genetic rescue of threatened elite lines;
- achieving understanding of molecular, organelle, cellular processes and control systems, with particular emphasis on understanding and addressing aberrant outcomes in the normal molecular transcription processes; or
- the development of animal models for human application to develop future health and medical procedures and solutions.

The issue of research on human embryos is hugely complex. Depending on a person's point of view, research such as this raises profound questions about the nature and formation of life. Without in any way demeaning the sincerely held views of many members of our community, it is my position that such research is a necessary part of medical science and a consistently administered regulatory system.

The National Health and Medical Research Council's paper on Ethical Guidelines on Assisted Reproductive Technology, released in 1996, determined a list of guidelines for the advancement of reproductive technologies, including two important principles:

- the recognition that any experimentation and research involved in these technologies should be limited in ways that reflect the human nature of the embryo, acknowledging that there is a diversity of views on what constitutes the moral status of a human embryo, particularly in its early stages of development; and
- a concern that the whole of society be well served by the development and application of the technologies.

I believe that the Research Involving Human Embryos Bill recognises these important principles. This legislation reflects the COAG agreement (also enshrined in commonwealth legislation) that embryo research could take place only under a strict regulatory regime and only on excess embryos created for reproductive technology that otherwise would have been destroyed.

COAG required that embryos in existence before 5 April 2002 were to be used and that this ban be lifted within three years. In the original bill, it was proposed that this ban could be lifted earlier by COAG, if it were agreed that essential protocols were in place to prevent extra embryos being created for use in research. However, I am aware that this clause was amended in the other place so that the ban can now only be lifted on 5 April 2005. Of course, this has the potential for the South Australian legislation to be non-corresponding. This may not occur immediately, but it could be an issue if COAG lifts the ban prior to the sunset clause.

The commonwealth legislation establishes the National Health and Medical Research Council Embryo Research Licensing Committee, which will assess and license research and other uses of excess embryos, as well as provide for a centralised database of information regarding licences issued. Licences will be able to be issued in June of this year.

It is important to note that the NHMRC licensing committee will take into account the assessment of a proposal by the local human ethics research committee. These committees are established within organisations that conduct medical research, and they consist of members from research communities, as well as the wider community.

Therefore, I believe that essential safeguards have been put in place to provide a consistent regulatory foundation for this research. Whilst it is not research that has universal support, it is, in my opinion, necessary research. I support the Prohibition of Human Cloning Bill and the Research Involving Human Embryos Bill.

The Hon. T.J. STEPHENS: I will make a brief contribution to place my views on these bills on the record. I rise to speak in favour of the Prohibition of Human Cloning Bill and the Research Involving Human Embryos Bill. I do not intend to spend much time explaining my position because I believe that it is clear and simple.

I believe that the Prohibition of Human Cloning Bill is both sensible and necessary, but many people in the community hold grave concerns about this process. In the simplest terms, the benefits of human cloning for the advancement of medical science are not self-evident. It seems to me that it is simply performing an act just to say that we can, whereas research into human embryos can yield very positive advancements for the human race and, in my view, should be pursued, despite the arguments against it.

In fact, the main contention of this legislation is that research into embryos destroys embryos in the process, and I agree that this is an unfortunate and undesirable outcome of research. The mature human body has 300 different cells types. Existing research indicates that embryonic stem cells can be manipulated to replicate more of these than any other stem cell. In Australia, approximately 2 000 people are in need of organ replacement, and embryonic stem cells offer hope to those who are on the waiting lists.

There appears to be evidence that adult stem cells and some other stem cells may also be beneficial in this regard. However, on current evidence (and I concede that this is a fast developing technology and I may be proved incorrect), embryonic stem cells are able to be manipulated into more of these 300 cells than other stem cells. So, why would we deny ourselves the best possible chance of curing disease and replacing organs?

I do not support the concept of embryo harvesting, but this is not what the bill before us proposes. I believe that my position holds, regardless of what one believes constitutes a human being, because my basic argument is that, if we already have excess embryos as a result of the IVF program that will perish regardless of whether they are used in research, the end result is the same for the embryos in question: they will perish.

The question is whether these embryos will provide stem cells that can potentially be used to cure disease and replace organs, or whether they will simply be allowed to expire without any further contribution to the advancement of the human race. Some argue that this will create a genetic class war, where only the rich will be able to afford the benefits of this process. I argue that we cannot stop the scientific process of discovery, and we must accept that, in broad terms, a medical class system already exists, because some people can afford private health insurance, with benefits such as chiropractors and dentists, and others cannot afford such insurance and have to make do with simple GP visits and a public health system that is not as quick as the private sector.

This does not mean that we stop creating new drugs because some people cannot afford it. In fact, conceivably, it is possible that embryonic stem cell research could lead to a lowering of prices for medicines that are currently out of the reach of an average family. As I have said, mine is a simple proposition: those embryos will be destroyed and washed down the sink, anyhow. Surely, there is more dignity in trying to save people's lives by utilising those embryos than there is in standing by as these embryos are wasted.

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

STATUTES AMENDMENT (ROAD SAFETY REFORMS) BILL

Consideration in committee of the House of Assembly's message.

(Continued from 14 May. Page 2332.)

The Hon. T.G. ROBERTS: I move:

That the council do not insist on its amendments.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Minister, do you wish to speak to that motion?

The Hon. T.G. ROBERTS: I think that the agreement reached is that we will not insist on the amendments. We will put the motion to the floor. We will not divide and we will take it to the next stage.

The Hon. CAROLINE SCHAEFER: I am opposed to the motion, which is yet to be seconded, I think, and insist that the amendments that have already been—

The ACTING CHAIRMAN: It does not need to be seconded.

The Hon. CAROLINE SCHAEFER: Very well. I insist that the amendments previously passed in this council be proceeded with. My understanding is that this bill will go to a deadlock conference between the two houses. While I am on my feet, because I am not confident of this procedure, I have an amendment to the amendments in respect of speed management and the annual report to be tabled by the minister. It is an alteration to the amendment that passed this place, moved by the Hon. Nick Xenophon. My view is that that also should be part of the series of amendments insisted on in this place so that the entire package can proceed to a deadlock conference.

The Hon. SANDRA KANCK: Some parts of this package are good and some not so good. It is a bit like the curate's egg. In order to get this to a deadlock conference, which, I think, is the only way we will be able to resolve it, the Democrats will join the opposition in insisting on the Legislative Council's amendments.

The Hon. A.L. EVANS: I agree with that. I feel we should go to a deadlock conference on this issue.

Motion negatived.

ADJOURNMENT

At 6.07 p.m. the council adjourned until Monday 26 May at 2.15 p.m.