LEGISLATIVE COUNCIL

Tuesday 3 June 2003

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

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Gaming Machines (Roosters Club Incorporated Licence) Amendment,

Statutes Amendment and Repeal (National Competition Policy).

NUCLEAR WASTE

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

FUTURES CONNECT

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement relating to Futures Connect made earlier today in another place by my colleague the Minister for Education and Children's Services.

WHEAT STREAK MOSAIC VIRUS

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

Leave granted.

The Hon. P. HOLLOWAY: I wish to advise the council today that the government has lifted all restrictions on the movement of grain in South Australia associated with the wheat streak mosaic virus. This follows further confirmation that the virus is widespread across many cropping districts and evidence indicating that it is likely to have been in the state for some time. The virus does not appear to have had any significant impact on field crops to date and is unlikely to cause problems now that quarantine restrictions have been lifted. Wheat streak mosaic virus was confirmed in material located at the Waite Precinct, Roseworthy and on a farm at Bordertown during the past month, and follows the first confirmed report of the disease in Australia in mid-April by the CSIRO in Canberra.

All sites were placed under quarantine pending extensive testing of plant material collected from across all states. Results from additional South Australian samples indicated that the disease is present across much of the state's cereal belt, although its incidence may be very low. It was identified on wheat plants growing on commercial farms and in crop breeding trials, as well as in roadside weeds. While protecting the state's $2 billion-plus cereal industry remains our top priority, we believe it was essential to make a considered and realistic evaluation of the situation facing both plant breeders and farmers.

The government is very pleased to be lifting the quarantine, as it means that farmers and researchers can get on with the business of sowing their crops and plots without the fear of being placed under quarantine. The vector responsible for spreading the virus, the wheat curl mite, is also very widespread across cereal production areas in Australia. Eradication of the disease is not possible, because both the virus and the vector are well established in South Australia. As announced previously to the council, I recently set up a ministerial task force to fully assess the overall impact of WSMV in South Australia and to determine the way forward.

The task force includes representatives from PIRSA and major industry groups such as the AWB, the South Australian Farmers Federation, Australian Grain Technologies Pty Limited and the Advisory Board of Agriculture. Its terms of reference are:

- advise the minister on the extent and impact of wheat streak mosaic virus on the South Australian cereal industry;
- determine the agronomic and economic impact of WSMV on cereal crop production in South Australia;
- prepare protocols for the South Australian cereal breeding and other agronomic programs in 2003 in conjunction with the commonwealth;
- advise on priorities for future research on WSMV in South Australia and nationally, in conjunction with the commonwealth and the Grains Research Development Corporation;
- oversee the state's contribution to and the impact of results in any national WSMV survey likely to be undertaken in late spring 2003;
- prepare and advise on a WSMV communications strategy to provide advice to South Australian cereal growers.

I am advised that the task force will meet for the first time this coming Friday.

RIVER RED GUMS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on dying river red gums made by the Hon. John Hill, on 3 June 2003 in another place.

ABORIGINAL DEATH IN CUSTODY

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I seek leave to make a ministerial statement in relation to Aboriginal deaths in custody.

Leave granted.

The Hon. T.G. ROBERTS: I wish to advise the council of the death of a young Aboriginal man at Port Lincoln Prison late yesterday afternoon. I must respect his family and customs and therefore do not intend to reveal the man's name. I must also exercise due care in my comments, given that the matter is subject to police departmental and coronial investigation. I can advise however that he was a 28-year old male who had been admitted to Port Lincoln Prison on 17 March 2003 on remand on a charge of being unlawfully on premises and that he was due to appear in the Port Lincoln court again on 17 July 2003.

At 4.27 p.m. yesterday the man was found hanging in a unit of Port Lincoln Prison. Sadly, despite efforts to revive him by prison staff, nurses and ambulance officers, the man was pronounced dead at 5.05 p.m. In accordance with standard procedures, the department and police commenced immediate investigations into the circumstances of his death. Their reports will be available to the Coroner, who is obliged to hold an inquest, as with all deaths in custody. I am advised

that the man had been observed by prison staff at 4.15 p.m. as part of their normal prisoner observations and that they observed no signs of personal distress at the time. I am further advised that he had been accommodated at a unit of the prison to enable his particular medical conditions to be stabilised and that consideration was being given to transferring him to Adelaide to enable further expert assessment. I understand that departmental staff flew to Port Lincoln last night and that they will be compiling a more comprehensive report into this matter.

Tragically, like all correctional jurisdictions worldwide, South Australia faces a major challenge in seeking to prevent the deaths in custody of people who often suffer from significant physical and psychological health problems or who are determined to take their own lives. In recent years the Department for Correctional Services has worked to prevent deaths in custody, and I would like to detail to the council some of the measures that have been implemented or are in the process of being implemented—some at the suggestion of the Coroner following his formal inquiries:

- The department has conducted an extensive renovation program in B-Division, Yatala Labour Prison to cover exposed pipes and air flow deducts in a heritage listed building. Many prisoners regarded as 'at risk' to self-harm are accommodated in this division. Since 1998, $112 000 has been spent in this area, and in the latest budget the government allowed $560 000 to further remove hanging points.
- Yatala Labor Prison was refitted with a new cell intercom system in 1997-98, costing more than $200 000. This system allows prisoners locked in cells to have immediate communication with control room officers. Part of the $2.99 million for the 2003-04 budget allocation for security and building management systems will be spent upgrading other cell intercom systems.
- New procedures have been implemented across the prison system to ensure all prisoners are physically observed at a minimum two-hourly period.
- The department is continuing to progress case management across the prison and community correctional systems. Each prisoner is allocated a case officer who can identify prisoner needs at a far earlier time and can assist in solving personal or private issues that prisoners may face.
- Last year a senior consulting psychologist was employed to advise on new programs to address prisoner mental health services. This work will be ongoing.
- The department continues to implement key strategies to reduce deaths in custody, in line with the royal commission recommendations. An Aboriginal Services Unit continues to provide support to prisoners, offenders and families and works with key community groups such as APOSS, ALRM and OARS.
- Eleven Aboriginal liaison officers have been appointed to work in all prisons as a direct result of the Royal Commission into Aboriginal Deaths in Custody, at a cost of over $500 000. These officers have wide ranging responsibilities and are advised of a new admission to a prison by an Aboriginal person and contact between them is established almost immediately. I also note that five Aboriginal health workers are in the process of being appointed.
- Regular Aboriginal prisoner forums are held by the chief executives at South Australian prisons, where issues are discussed on a departmental and local management level. These discussions include representatives from the Aboriginal community groups, including AJAC, APOSS and ALRM.
- The Aboriginal Services Unit conducts Aboriginal cultural awareness and suicide prevention courses that are available for all staff.
- In line with royal commission recommendations and where appropriate Aboriginal prisoners are offered an opportunity to share cells with other prisoners to reduce the potential for death in custody.

These measures are a good start, but I recognise that much remains to be done, and that prisoners are presenting increasingly complex physical and mental health problems which is a challenge for society broadly and corrections to manage. I would like to conclude by offering my deepest sympathy to the family of the deceased man and offer any assistance the department can give to help them deal with this tragedy.

QUESTION TIME

CADELL TRAINING CENTRE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the Cadell Training Centre.

Leave granted.

The Hon. R.D. LAWSON: On the weekend it was revealed that a sophisticated underground distilling operation had been discovered at the Cadell Training Centre. This operation was, of course, illegal and unauthorised. It was reported that a cellar of quite large proportions had been dug and in it was operating a still consisting of a large fire extinguisher and copper pipes. Following this discovery, the Chief Executive Officer of the Department of Correctional Services said:

> We have put in place a security review, we have used the dog squad to go through the place and the new general manager who starts next week has firm instructions to examine everything.

When asked about prison escapes and other incidents involving our correctional institutions, the minister always says that the matter is being investigated, and he gives us some words of assurance, such as 'all is safe'. My questions are:

1. When did the minister become aware of this underground distilling operation at the Cadell Training Centre?

2. Does he agree with the statement of the chief executive officer of the department (that there is now going to be a security review and that the new general manager who starts next week has firm instructions to examine everything) creates the impression that there is not in place an ongoing and continuing security operation to avoid incidents of this kind?

3. What action has the minister or his officers taken to ensure that illegal operations of this kind are stamped out?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The honourable member's report of what he calls this 'illegal and unauthorised' still is accurate. I received an incident report recently. I do not know the exact date of that report, but I will provide that to the honourable member. This incident report is almost the same as the report in the weekend press. I was surprised by the size of the operation. I am a keen observer of war escape films of the 1960s and 1970s, and the amount of soil removed from this underground hideaway must have been enormous. I am surprised that

prison officers did not notice that soil was being moved from one place to another. Incidents that occurred at Colditz and other prisons pale into insignificance when you look at some of the inventive ways in which people in custody put together illegal stills for what is generally regarded as hooch.

Fortunately, this does not happen regularly in prisons. From time to time, particularly on prison farms where vegetables and fruit are available, there are reports of illegal stills being put together and dismantled. In this case, I was surprised when the incident report came across my desk. I have asked for a full report as to how the still was able to be put together, how such a volume of soil could be removed without being detected and what steps could be put in place to prevent it from happening again. The protocols for Cadell, where fruit and vegetables are available for distilling, will have to be much tighter in the future, and I will make that recommendation after I get a full report.

SAMAG

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the minister representing the Premier a question about SAMAG.

Leave granted.

The Hon. R.I. LUCAS: Soon after the appointment of Mr Robert Champion de Crespigny as head of the Economic Development Board early last year, Premier Rann was interviewed on a number of radio stations in relation to the appointment. I refer to the text of one interview with ABC regional radio, where the journalist Andrew Marl asked the following question:

> The SAMAG saga is one that's gone on for quite a while. . . [it] seems to continue. . . with your new head of the Economic Development Initiative. . . Robert Champion de Crespigny's role with magnesium is interesting with Qld. . . are you concerned there is a. . . potential conflict there?

The answer from the Premier was:

> No. . .

And I am relying on the Media Monitors transcripts which do not always have every word in the transcript. As provided by the Premier's office, the answer was:

> No. . . de Crespigny will not be involved with the SAMAG issue. . . we've made that very clear publicly before. . . obviously where a member of the board has a conflict of interest, they won't be involved.

A number of other interviews were conducted with the Premier—and, indeed, with the Minister for Industry at the time—where that undertaking was made by the Premier and the minister on behalf of the government.

Yesterday, there was a story in the *Financial Review* and, subsequent to that, a question asked in another place, in which minister McEwen tabled a copy of a letter from Robert Champion de Crespigny to Senator Nick Minchin, the Minister for Finance and Administration, the Hon. Ian Macfarlane MP, Minister for Industry, Tourism and Resources, and also addressed to the Hon. Rory McEwen, Minister for Industry, Trade and Regional Development, dated 22 May.

The Hon. Diana Laidlaw: Which year?

The Hon. R.I. LUCAS: Twenty-second of May this year.

The Hon. Diana Laidlaw: Since he was appointed to the position of chair?

The Hon. R.I. LUCAS: Certainly, yes; it was only just over a week ago. I will not read all the letter, as it has been tabled. I do not want to unfairly reflect on Mr Champion de Crespigny's letter. Given the time available, I will not refer to all of it, but it is part of the public record. Mr de Crespigny says, in part:

> Over a long period of time I have expressed my concern about the liability of not only this project but of the challenges in the magnesium market as the Chinese increase their market share.
>
> Yesterday, when meeting with Rory McEwen, he asked my thoughts on it. I said that I expressed my concern at both State and Federal level in that they seemed to be receiving presentations from the company, have very much improved their structures, but without any proper overview of the project from other people. Over the last year or so I have strongly recommended that this overview of the project be made so that you can all hear where people may challenge some of the assumptions.

I repeat:

> Over the last year or so I have strongly recommended that this overview of the project be made so that you can all hear where people may challenge some of the assumptions.

The letter continues:

> Recently, when in North America I travelled to Canada to meet with Noranda who had closed and written off the CAD$750 million Magnolia project. I arranged with the Chairman of Noranda, Mr David Kerr that he would make his people available also to talk to such a committee were it to be instigated.
>
> I repeat my comments that I strongly recommend an overview and a review of the assumptions being made.
>
> Please do not hesitate to contact me should you wish to discuss.
>
> Yours sincerely,
>
> Robert J. Champion de Crespigny.

Mr President, as a member with some interest in the SAMAG project I am sure that you will be interested in this particular development and issue. As you will know, Mr President, the former Liberal government and the current government have committed a level of funding to the SAMAG project. The current government's approach is that $25 million of state funds is contingent on a contribution from the federal government; that is, the state will contribute if the federal government contributes some funding. Clearly, one would imagine that key ministers in that decision will be Senator Nick Minchin and the Hon. Ian MacFarlane, Minister for Finance and Minister for Industry, Tourism and Resources. My questions are:

1. What guidelines were laid down by the Rann government in relation to Mr Champion de Crespigny and the SAMAG issue?

2. Has Mr Champion de Crespigny breached those guidelines?

3. Has the Premier, any minister or officer of the government expressed concern to Mr Champion de Crespigny that his memo to federal ministers has breached those particular guidelines?

4. Given that SAMAG is still seeking federal funding assistance for SAMAG, has SAMAG expressed any concern at all to the Premier, ministers, or any government department or officers about Mr Champion de Crespigny's letter and, if so, what were those concerns; and in particular has SAMAG expressed any concerns that the prospects of SAMAG's attracting federal funding might have been harmed by this particular letter to federal ministers?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I would suggest that any member of this council who is interested in the background to Mr Champion de Crespigny's letter should read the *Hansard* of yesterday. The Leader of the Opposition (Hon. Rob Kerin) asked the first question in question time and it related to the SAMAG issue. The Hon. Rory McEwen, the Minister for Industry, Trade and Regional Development, very clearly

explained the background as to how that letter transpired. In relation to the other parts of the leader's question about what undertakings may or may not have been given in the past, I will refer them to the Premier—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: That sort of talk about quasi-members of cabinet is nonsense. The Hon. Angus Redford does not help anyone, least of all himself, when he makes inane interjections such as that, but I will refer those questions to the Premier and bring back a response.

BARLEY MARKETING REVIEW

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 the review into the single desk for marketing barley.

Leave granted.

The Hon. D.W. RIDGWAY: On ABC radio last Friday, the minister was asked a series of questions relating to the review of the Barley Marketing Act. During that interview, the minister said that he would be receiving an executive summary of the findings of the committee reviewing the Barley Marketing Act later that day. In view of that statement, my questions are:

1. Will the minister inform the council of the general findings of the Barley Marketing Act review, particularly in relation to any findings relating to the single desk for marketing barley?

2. Will the minister assure the barley growers of South Australia that his government will not abolish the single desk for barley?

3. When does the minister expect to receive the report into the Barley Marketing Act review?

4. When will the minister make this report available to the public?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member is correct; that is, I did meet with the Chair of the Independent Review Committee, Professor David Round, from the University of South Australia. I think I incorrectly said last week that he was from the University of Adelaide: he has now moved to the University of South Australia. What I received last week was an overview of the executive summary. I believe the full report should be made available later this week.

When I receive the full report I will need to make a submission to cabinet as to where the state goes from here. However, before I make the report public, it is only fair that I consult widely with the farmer organisations, in particular the Grains Council and SAFF. I do not intend to make any premature comments on it at this stage. I will go through the proper procedures. The Grains Council of South Australia and the Farmers Federation deserve to hear directly from me, and not through the media, what is suggested in the report and what the government's response to that report will be.

As I indicated in answer to the question from the Hon. Caroline Schaefer last week, I am required under the terms of the Barley Marketing Act to put a report of the review before both houses of parliament at some stage. Obviously I also need to report to the National Competition Council in relation to this matter, and in view of these things I will be handing it to the council before I make any public statement. What I am saying is that if I make some comments now based only on an executive summary about what the report might do, and it hears about it through the paper, I think that would be highly discourteous. When I have the full report and when I have had the opportunity to talk to my cabinet colleagues about it then I will consult with the industry and make the findings of that report public.

The Hon. A.J. REDFORD: A supplementary question: did the minister put in a submission to the National Competition Council in relation to the continued existence of the barley bill?

The Hon. P. HOLLOWAY: The National Competition Council, as I indicated in answer to the question put by the Hon. Caroline Schaefer last week, has had an ongoing interest in the future of the barley marketing single desk. That is no secret: we have had a series of reviews and, in fact, every year the National Competition Council at around this time puts out a report. It has bilateral meetings with the states in relation to a series of issues, of which shopping hours has been one. There are a number of other issues in relation to my portfolio that it discusses. The barley marketing review is one thing that has been on their annual list for some time.

The Hon. A.J. Redford: I ask again: did you put in a submission, or did they put in a submission?

The Hon. P. HOLLOWAY: Well, there are officers I think in the Premier's Department that coordinate a response to the National Competition Council. But, yes, they have spoken. They regularly update officers of the National Competition Council in relation to what the state is doing and, as I indicated in that question last week, there was a series of ongoing meetings with the National Competition Council in relation to the methodology and other matters of this particular review. Obviously, if one is conducting it under competition policy, one needs to ensure that the review ultimately will be acceptable to the National Competition Council. As I indicated last week, it is my belief that that will be the case. But I guess that a report from the National Competition Council will be out shortly in relation to this matter.

The Hon. A.J. REDFORD: As a further supplementary question: does the government's position support the current Barley Board arrangements, or does it have some other view and, if so, what?

The Hon. P. HOLLOWAY: We have just had an independent review in relation to the future of the Barley Marketing Act, and I now have an independent report before me. I will consider the findings of that report when the full report is given to me.

The Hon. A.J. Redford: How can you put a submission in if you haven't got a view?

The Hon. P. HOLLOWAY: Well, the thing is I have not put in a submission to my own review. The review is there—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The honourable member does not seem to understand that what the National Competition Council wants to be satisfied with is the process. It is concerned with the process. It sets certain standards that have to be met in relation to all legislation, and there are a number of reviews in relation to my portfolio. There is a series of them: the Dried Fruit Act, the Citrus Act, the Barley Marketing Act, the Fisheries Act—in fact, every piece of legislation in the entire state has to at some stage or other go through a competition review. The submission, if you want to call it that, in relation to the national competition is simply a report to the National Competition Council on what action the state has taken.

In relation to the Barley Marketing Act, we have informed it—and we have kept it informed all the way through the process—that we have set up a review to examine the future of the act. Of course, the purpose of that review has been to determine whether the retention of the Barley Marketing Act, in particular the single desk, is of public benefit—whether it passes that public benefit test—and essentially that is what this report is about. Ultimately, I will report to the NCC on the findings in that report and the government's response to it.

The Hon. D.W. RIDGWAY: I have a supplementary question. The minister mentioned a report. Will he confirm whether he has that report; if not, when does he expect to receive the report?

The Hon. P. HOLLOWAY: An executive summary was given to me last Friday, but I expect the full report later this week.

The Hon. D.W. RIDGWAY: I have another supplementary question. In respect of the consultation of which the minister has spoken, will that be similar to past practices, for example, in relation to the river fishers and the Fricker family from the Northern Tavern?

The Hon. P. HOLLOWAY: The honourable member is asking me to consult through the parliament and say what is in the report. I will not do that. I will talk to the people concerned when I have the report later this week.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise when he expects to table the report?

The Hon. P. HOLLOWAY: Obviously, I hope that is as soon as the report is received and we have had a chance to respond to it. The point I was making about the NCC deadline, in particular, at the end of the year, is that the government will have to move quickly in relation to whatever response is appropriate for this report. I hope we are in a position to do so before the end of this session.

AQUACULTURE, PORT LINCOLN

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about an aquaculture lease near Port Lincoln.

Leave granted.

The Hon. CARMEL ZOLLO: At a community cabinet meeting in Port Lincoln in September 2002, a presentation by the Chief Executive Officer of the Port Lincoln Aboriginal Community Council raised a number of issues in relation to the difficulties that Aboriginal communities have in entering into commercial aquaculture development, particularly the difficulty of raising capital without a trading record. The presentation also highlighted the problems that Aboriginal communities have in getting through the assessment approvals process—a process which is necessary before a marine aquaculture lease and licence can be granted.

I understand that cabinet recently endorsed a decision to allocate an aquaculture lease near Port Lincoln to be granted to Aboriginal communities for the purpose of aquaculture development. Will the minister provide information in respect of the current status of that site and whether it will be taken up as an indigenous aquaculture incubator site?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Cabinet did recently make a decision to offer the Aboriginal community a sub-title shellfish lease in the Port Lincoln area for the purpose of encouraging people into the aquaculture industry. That has been welcomed by the Aboriginal community and the agencies whose role is to encourage and support Aboriginal enterprise. The concept of an aquaculture business incubator presents a unique opportunity by integrating community capacity building and enterprise development. Management arrangements for such a facility are currently being developed to take into account the factors distinct to indigenous communities, as well as those issues not currently dealt with in other state planning strategies. Importantly, this opportunity was identified as a result of comprehensive consultation with all appropriate indigenous groups that will assist in promoting involvement and ownership in the venture.

It is proposed to offer the lease site to the local Aboriginal community with the intention to allow individuals or groups to operate an aquaculture business and to develop appropriate expertise. It is considered appropriate that aquaculture leases will be granted as part of an incubator program to allow operators to develop sufficient knowledge to enter into other aquaculture businesses in their own right, once a level of experience has been gained.

Although cabinet has agreed to a site being allocated for the Aboriginal community, the proponents will still need to seek development and licence approval, as would be the case for any other aquaculture application. I also understand that arrangements have been made with my colleague the Hon. Terry Roberts' department and other government agencies and, hopefully, for some commonwealth assistance, to assist the Aboriginal community in this regard. I believe that this is a unique development opportunity for indigenous people, particularly the Aboriginal people on Eyre Peninsula.

It provides the opportunity for indigenous people across the state to learn every aspect required to apply for and operate aquaculture ventures, therefore overcoming the obstacles of the past and promoting participation in the state's successful aquaculture industry. There is no doubt that aquaculture in this state has been of great benefit to Eyre Peninsula, particularly to the Port Lincoln community. I hope that, as a result of this venture, some of those benefits to that region will be spread more widely, in particular to the indigenous community.

ELECTRICITY SUPPLY, CARERS

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 electricity costs for carers.

Leave granted.

The Hon. KATE REYNOLDS: Energy costs are a significant burden for family carers who provide care at home for family members with a disability or chronic illness or who are frail aged. Medical conditions that require the avoidance of variations in heat and cold include emphysema, cystic fibrosis, multiple sclerosis, sleep apnoea and a range of heart and lung conditions, and therefore airconditioners are often needed to be in constant use. Many carers rely upon special equipment and the additional use of utilities to maintain a safe environment, for example, lights needing to be left on all night, 24-hour use of oxygen, maintaining heat in therapy pools, extended use of electric armchairs, use of electric

wheelchairs and lifters, and frequent bathing and washing of clothes and linen for people suffering from incontinence.

A 25 to 30 per cent increase in electricity costs is placing a significant financial strain on family carers in South Australia, as demonstrated by the Carers Association of South Australia's recent survey of carers, which showed that family carers use 14.5 per cent more electricity, on average, than other South Australian households. Their electricity costs questionnaire report found that 86 per cent of respondents relied on a government payment or pension and 63 per cent of respondents had a household income of less than $20 000 a year. Following the recent tariff increases, single carers on a carer payment can expect to pay nearly 12 per cent of their income on their electricity needs. By comparison, their average electricity bill represents only 3.1 per cent of the male total average weekly earnings.

Carers using both electricity and gas are even further disadvantaged. Their average total energy bill, following the tariff increases, is 31 per cent more than the average electricity only carer household, and that was prior to the price increases for gas announced in the state budget last week. Carers have been forced to cut back on the essentials of life, including basics such as food and clothing, just to pay their energy bills, putting the health of both carers and those they care for at risk. A regular and reliable supply of electricity is vital in the maintenance of equipment needed for the health and wellbeing of care recipients.

The electricity costs report, subtitled 'Too old and too slow to be a burglar', has highlighted how crucial it is for the government and energy suppliers to explore ways of providing support for family carers. Therefore, my questions are:

1. Will the minister provide additional financial support directly to carers to meet their disproportionate household energy costs? If not, why not?

2. Does the minister agree that when carers can no longer meet the day-to-day costs and personal pressures of caring they are forced to relinquish their caring role, resulting in increased costs to the state through the provision of expensive institutional care?

3. Will the minister take action to have the carers allowance recognised as the basis for eligibility for concessions and subsidies for household costs? If not, why not?

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

GOVERNMENT ADVERTISING

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about the use of taxpayer funded advertising

Leave granted.

The Hon. NICK XENOPHON: Two years ago to this day I attended a media conference with the then leader of the opposition, now Premier, in which the Hon. Mr Rann supported a bill I subsequently introduced into this place on 6 June 2001, namely, the Government Advertising (Objectivity, Fairness and Accountability) Bill, which was subsequently debated but not passed in this chamber. The Hon. Mr Rann's media release dated 3 June 2001 which announced in principle support for the bill stated in part:

> Labor leader Mike Rann said today the Auditor-General, Ken MacPherson, reported serious concerns about the use of public money for party political advertising in a report to parliament before the last state election—but the Olsen government had failed to act.

The media release goes on:

> And he pledged an immediate review of all state government advertising and promotional spending if Labor wins the next election.

The media release went on to make the very fair point that the legislation I introduced was based on federal legislation proposed by then national Labor leader, Kim Beazley. The release states:

> . . .seeks to make it an offence for a government minister to authorise the use of taxpayers' money to fund advertising and promotional campaigns where the effect is to give an advantage to a political party, rather than to inform the public about government services or initiatives.

It makes the point that under the bill, which was supported in principle by the Labor caucus, ministers would have been liable for a fine of up to $100 000 which could not be paid from the public purse.

Members interjecting:

The Hon. NICK XENOPHON: I will not be diverted. The release also states:

> Mr Rann said he had no problem with legitimate government advertising such as promoting safer driving or a healthier lifestyle, but he believed many of the big budget Olsen government campaigns carried a blatantly political message which should be funded by the Liberal Party.

Finally the release reports:

> 'Labor believes in different priorities. I'm quite happy to take a knife to the spin doctors if it frees up more money for real doctors to cut the hospital waiting lists,' Mr Rann said.

An honourable member interjecting:

The Hon. NICK XENOPHON: I did; first and last, I think. I refer to the government's radio and telephone advertising campaign for the 2003-04 budget, broadcast in recent days. I note that it covered three issues: law and order, education and health, and one of the scenes showed the Premier and the minister cutting a ribbon for a public hospital. My questions to the Premier via the Leader of the Government are:

1. Will he outline any review or reviews that have taken place in relation to state government advertising and promotional spending and the outcome of any such review process, as promised in the Hon. Mr Rann's media release of 3 June 2001?

2. To what extent has the government taken into account the serious concerns referred to by the Auditor-General with respect to his report of 1997 when he raised this very issue? Further, to what extent have those concerns been dealt with and implemented by way of government policy?

3. Will the Premier indicate how much money the government has spent on electronic media advertising for the budget, and how does that compare with the last budget of the former government in terms of electronic and other expenditure with respect to the budget?

4. Does the Premier concede that the government's budget advertisements would not pass the principles and tests set out in the Government Advertising (Objectivity, Fairness and Accountability) Bill, which he previously supported; and is it the case that the government's previous policy on taxpayer funded campaigns is really a case of 'ads nauseam'?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I well remember the bill that the Hon. Nick Xenophon introduced. It was devised because the Olsen government was spending hundreds of thousands of

dollars of taxpayers' money on promoting the sale of ETSA, even though that bill had been rejected by the parliament. That is essentially the issue to which the Auditor-General also referred. It would be interesting to have a look at a copy, but it is quite clear that from the then opposition's point of view we had no objection to governments providing information in relation to the budget.

The Hon. R.I. Lucas: That is untrue.

The Hon. P. HOLLOWAY: It's not untrue.

The Hon. R.I. Lucas: That is untrue.

The Hon. P. HOLLOWAY: Well, we'll see. It is quite clear. People like the Hon. Rob Lucas would love to reinvent history. Here we have the master reinventor of history. If anyone goes back and looks at those debates, they will see that it is quite clear that criticism of the government related to the use of funds to try to persuade people to support the sale of ETSA bill. Issues involving government budgets are in a quite different context. As I recall the wording of the honourable member's bill, it specifically targeted the ETSA sale situation. For as long as I have been around politics, governments have always conducted campaigns to provide information in relation to budget decisions, but this specific issue related to the sale of ETSA. Notwithstanding the fact that the bill had been rejected by the parliament, the Olsen government was seeking to expend money for that purpose.

So, it has always been the practice that governments have expended funds in order to inform the community of budget decisions, and I believe it is entirely appropriate that they should do so. It is entirely appropriate that government decisions in the budget should be communicated to the public—they have to be. There are a number of decisions in budgets that will affect a lot of people, so it is appropriate that that information should be provided, but to use taxpayers' money to try to get support for a bill which had been rejected by parliament is another thing entirely. I will refer the latter questions asked by the honourable member to the Premier and bring back a reply.

The Hon. SANDRA KANCK: I ask a supplementary question. In the light of the fact that the Premier is moving for a joint committee to look at putting together a code of conduct for members of parliament, will he include in the terms of reference of that committee the use of public money for promoting government activities?

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

The Hon. R.I. LUCAS (Leader of the Opposition): As a supplementary question, is it currently the government's policy to support legislation in exactly the same terms as those outlined and introduced by the Hon. Mr Xenophon two years ago for which the now Premier has indicated his support?

The Hon. P. HOLLOWAY: Is it currently government policy to do that? There is certainly nothing before the government to do any such thing. However, what I can say is that the current government, unlike that person over there—the Hon. Rob Lucas, who was quite happy to spend taxpayers' money to pervert the political process to try to get support for a bill—

The Hon. R.I. Lucas: You're a joke.

The Hon. P. HOLLOWAY: No, you're the joke. The Hon. Rob Lucas was quite happy to spend taxpayers' money even though parliament rejected the bill. He had so little respect for the political process that he would corrupt that process by spending taxpayers' money in that way. This same hypocrite who is now attacking the government was quite happy to spend funds in that way. In fact, for many, many years it has been the process for governments to inform it in relation to budget decisions.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No, I am not going to be patronised by you, because—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I will stand here for as long as I can to expose the honourable member.

Members interjecting:

The Hon. P. HOLLOWAY: Of course, he is worried because he knows—

Members interjecting:

The Hon. P. HOLLOWAY: They thought they had a good question here, but of course the whole ETSA sale process was one of the great disgraces of Australian politics. The Hon. Rob Lucas only knows how to be patronising. When it comes to substance, there is absolutely nothing there.

Members interjecting:

The PRESIDENT: Order! Before we take the supplementary question from the Hon. Mr Lucas, I point out that there is too much hubris in the chamber today and some intemperate language. I ask you all to come back to earth. The Hon. Mr Lucas has a supplementary question, which will be heard in silence I would hope.

The Hon. R.I. LUCAS: My supplementary question is: will the minister confirm that, in the government's paid electronic media campaign for this budget, there has been no reference at all to any of the negative impacts imposed in this budget such as the Rann water tax, the increased training tax, the increased motor vehicle charges, the increased government charges and also government cutbacks in terms of public sector expenditure? If that is the case, is it, therefore, the case that this is different from previous campaigns where in the written material any increases in taxes and charges were referred to in that material?

The Hon. P. HOLLOWAY: No, I have not seen the written material. But that is a matter for judgment. I am not responsible for the production of that material.

Members interjecting:

The Hon. P. HOLLOWAY: I've actually been too busy lately, as a matter of fact. I will refer the question on, if the Premier wishes to provide a reply.

The Hon. R.I. LUCAS: As a further supplementary question, can the minister confirm that, when this issue was last discussed—and the Premier was the leader of the opposition—when he was asked as to how one could judge whether or not it was a party-political campaign or a government information campaign, he said, 'The simple test is that, if the minister's head and shoulders shot is in the photograph or if the minister is involved in the campaign, then it is party-political advertising and should be paid by the party involved.'? If that is the case, can the minister confirm whether the Premier is physically involved in the television advertising campaign for this budget?

The Hon. P. HOLLOWAY: I cannot confirm or deny what the—

The Hon. A.J. Redford: Or was it an actor?

The Hon. P. HOLLOWAY: Well, the interesting thing about the Hon. Rob Lucas is that here we have a human being who is obsessed with the entire government. There is no

person in the South Australian parliament in the Legislative Council who has spent so much time obsessed with the Premier. It is rather sad that the Leader of the Opposition, after over 20 years in this house of parliament, is so obsessed with what the—

Members interjecting:

The Hon. P. HOLLOWAY: I suppose we should take it as something of a compliment, the fact that this government and individuals of this government should require so much time of the honourable Leader of the Opposition in relation to what they may or may not have said many years ago. From the point of view of members, this Rann government is getting on with the business of running government, including, of course, addressing most of the mess that the Hon. Rob Lucas left us.

WATER LEVY

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, questions about the new tax on householders.

Leave granted.

The Hon. J.F. STEFANI: Last Thursday, the Treasurer announced in the state budget that householders will be required to pay a new tax of $30 from 1 October 2003. By this announcement the Labor Party is breaking yet another of its election promises that it would not introduce any new taxes during the life of the government. In addition, the Treasurer indicated that a new tax of $135 will apply to non-residential users, those with landholdings of more than 10 hectares and commercial customers. The new tax will not apply to pensioners and people who receive concessions from SA Water. My questions are:

1. Will the Treasurer confirm that every South Australian who owns rented flats or rented residential premises will be paying $135 on each flat or house that is leased?

2. Does the Treasurer concede that landlords with rented properties will not be in a position to absorb the new tax and therefore all tenants will be affected by the Labor government's broken promise under the new tax regime?

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

NATIONAL LIVESTOCK IDENTIFICATION SCHEME

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

Leave granted.

The Hon. CAROLINE SCHAEFER: I note that, after some pressure from this side of the council, the government has budgeted approximately $3.1 million of what is referred to as 'seed funding' towards the implementation of the NLIS. I note that budget papers state that this funding is subject to the agreement of industry on its contribution to the scheme. My questions are:

1. Now that the budget initiative has been announced, will the minister finally release the economic impact study into NLIS?

2. What does 'seed funding' specifically entail in this case?

3. Will funds be made available to assist industry to purchase tags at a discounted rate?

4. Given that the government's assistance measures are subject to the agreement of the cattle industry's contribution, is it true that the government contribution will be only for the administration and planning of the scheme and that the industry contribution demanded is expected to be 75 per cent of cost recovery? Therefore, is it a fact that the government is contributing only 25 per cent of approximately $3.1 million to the NLIS?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In relation to the first question, the economic impact statement was given to the key stakeholders early last week prior to the budget. As I said, that document is available to the stakeholders. As I indicated in answer to a question a few weeks ago, I believe that it is an important document in determining the relevant benefits from a rapid uptake of the national livestock identification scheme to industry and the community. In relation to the funding of the scheme, what the government is proposing is that (as was indicated in the budget) it will provide the total up-front cost of the scheme. Of course, some contributions have already been made to the introduction of national livestock identification by both the government and industry. Some readers have been provided to livestock markets. By far the main cost, as I understand it in relation to the up-front funding of national livestock identification, would be readers, the associated technical equipment and, of course, the tags.

The benefits of the government's funding such a scheme up front is that there could well be significant cost benefits in purchasing such things in bulk. As has been indicated, the government will be negotiating with industry in relation to its cost recovery, and an indicative amount has been put forward in relation to the actual proportion; namely, 25 per cent government funded, 75 per cent industry funded. However, I point out that, apart from the benefits that one would get from significant cost reductions through up-front funding, the other benefit is that, if the government funds this scheme up front but then recovers it over a number of years, then, of course, that would significantly increase the present value of the government's contribution. Consequently, it is more likely to be at least a contribution of 35 per cent if one were to take into account the present value of funding the scheme up front.

A number of negotiations still need to take place with industry. The particular proposals for this scheme have been around for a number of years—they certainly pre-date my time as minister. However, we are keen to see this move forward and we certainly gave an undertaking to industry last week that we would have further negotiations in relation to this matter. We are hoping that we can reach agreement before the introduction of this measure.

I also point out that there is a scheme for both cattle—the national agreement for which is due to commence on 1 July 2004—and sheep, with the national flock identification scheme due to commence on 1 July 2005. Clearly there are different issues to be taken into consideration in relation to the sheep scheme as opposed to the cattle scheme, as well as issues relating to particular groups (for example beef versus dairy cattle), and so I suspect that ongoing and detailed negotiations with industry will take place before agreement on this scheme is reached. However I am pleased, now that the budget has come out and with the finalisation of the economic impact statement by my department, that we are in a position to move forward to implement this particular

scheme. Whatever way one measures it, and it is important to say it, I believe that the introduction of a national livestock scheme will involve a contribution of some millions of dollars by the taxpayer.

I suspect that there will be a variety of views within the industry: I know there are a number of livestock producers who believe that, regardless of any government contribution, we should move rapidly into livestock identification; indeed they would be happy to fund the scheme fully themselves. Of course there are others who will object to any contribution whatsoever. With this scheme we are seeking to achieve an appropriate balance between public interest and public benefits and the enormous private benefits that will flow from the rapid uptake of this scheme.

I believe that this particular initiative is one of the very important and noteworthy achievements of this government. Indeed, I have already been pleased to receive a number of positive comments on the government's proposal from some key people within various parts of the livestock industry in this state.

RAIL, WHEEL SQUEAL

The Hon. J. GAZZOLA: 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 rail noise.

Leave granted.

The Hon. J. GAZZOLA: I understand that wheel squeal has been occurring throughout the Adelaide Hills since freight trains were first introduced. I also understand that, since the change in track gauge from broad to standard, there has been an increase in complaints to the Environment Protection Agency about noise. What action has been taken by the EPA to address the problem of wheel squeal in the Adelaide Hills?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his ongoing interest in the people who have to put up with problems in the hills. I was made aware of the problem when sitting on the Environment Resources and Development Committee when it was raised as a major problem for people in the hills and complaints were being laid at the feet of local members and at the door of the then government. The former minister for transport probably remembers when the rolling stock was being blamed. People were saying that the rolling stock was old and needed replacing. Had the government gone down that track, it would have wasted a lot of money because the wheel squeal is caused by other problems.

Wheel squeal is a world-wide problem and is being investigated internationally. Studies show that currently it is not possible to definitively predict the nature and extent of wheel squeal in any given situation. However, influential factors include the radius of the rail bend, the condition of the rolling stock, the profile and condition of the track, the speed and weight of the train and the wheel/rail friction coefficient. A number of measures have been trialled in Australia to address the issue of wheel squeal. These include wheel dampeners, steerable bogeys, wheel and track profiling, track lubrication and sound barriers.

The EPA has also investigated the use of solid barriers along the track to reduce the noise. A barrier constructed along both sides of the track at a single bend would be very expensive and cost around $1.1 million. In addition, I am advised that the Rail Infrastructure Corporation in New South Wales found that residents did not like the visual impact of the barriers, and issues of safety, topography and track access are to be considered.

The EPA and track operators have now decided to jointly fund a project to install a wheel squeal noise monitoring system in the Adelaide Hills. The aim of the project is to confirm whether or not wheel squeal, which is confined to particular wheels, is a random event. To the EPA's knowledge, research on this has never before been carried out anywhere in the world. It is expected that the project will begin during the second week of June. Although I understand this is a formal approach to research, there have been a number of attempts to try to eliminate and minimise wheel squeal in the Adelaide Hills over a number of years.

The Hon. A.J. REDFORD: I have a supplementary question. What on earth has this to do with any portfolio that the minister administers?

The Hon. T.G. ROBERTS: I am not sure whether the honourable member has read the portfolio responsibilities, but I have read them, as a part of my portfolio Assisting the Minister for Environment and Conservation who has—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: —responsibility for the EPA. I found this to be important, particularly for those people who live in the Hills.

GAS SUPPLY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Infrastructure, a question about the extension of the natural gas network into the Adelaide Hills.

Leave granted.

The Hon. SANDRA KANCK: In September 2001 Investra, the sole natural gas distributor in South Australia, put a plan to the then South Australian government to extend Adelaide's gas distribution system to Mount Barker via Crafers, Stirling, Aldgate, Bridgewater, Hahndorf and Littlehampton. The plan had the backing of the Adelaide Hills Regional Development Board, Origin Energy and some major businesses, which are energy intensive, in the hills. The report details considerable economic benefits for the Adelaide Hills, including an estimated 550 new jobs, an increase in export earnings of $66.2 million over the first decade and business cost savings of $3.2 million over the first decade. The average commercial customer is expected to save between $8 000 and $10 000 on fuel costs. The report also pointed to the environmental dividend of extending the natural gas distribution system into one of South Australia's fastest growing regions. Using gas to heat a home is greenhouse gas friendly compared with using gas to generate electricity to heat the same home. That equation increases further when coal-fired electricity is used instead of natural gas.

Currently, hills residents and businesses are denied these benefits because the national third party access code for natural gas pipelines prevents Investra from amortising the costs of the extension. The amortisation of network extension costs was how the Electricity Trust of South Australia extended its network throughout regional South Australia. In order to overcome the restriction of the access code, Investra is seeking an interest free loan. The project is estimated to

cost $9 million. Investra needs approximately $4 million of that in the form of an interest free loan to make the project viable. At the last state election in Victoria the Labor government pledged $70 million over four years and the Liberal opposition $150 million over four years for the extension of that state's natural gas delivery system. The Rann government is seeking, however, to hatch hundreds of millions of dollars in future surpluses during the life of this parliament. My questions are:

1. Does the minister believe it is good for competition that consumers have the choice between natural gas and electricity in the Adelaide Hills?

2. Does the minister acknowledge that the use of natural gas as a direct fuel source is environmentally preferable to coal or gas-fired electricity?

3. Given future budget surpluses, will the minister commit to providing an interest free loan to Investra for the extension of the gas network to Mount Barker?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I understand the issue that has been raised by the Hon. Sandra Kanck. As someone who lives in the Hills, I know the issue has been around for some time. I will pass the question on to my colleague the Minister for Energy and bring back a reply as soon as possible

EMPLOYEE OMBUDSMAN

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Industrial Relations, a question about state budget cuts to the Office of the Employee Ombudsman.

Leave granted.

The Hon. T.G. CAMERON: Page 6.9 of the state budget papers indicates that there will be a cut of 3.1 per cent (approximately $18 000) to the budget of the Office of the Employee Ombudsman. This cut does not take into account inflation for the next 12 months, so, effectively, the office has had a cut of 7 per cent. This is despite its increasingly heavier workload. The result has been that the office has had to cut its advertising budget and curtail visits to country areas and regional South Australia. The budget paper at page 6.9 states that the role of the office is as follows:

> . . . to assist in ensuring that the rights of employees under South Australian law are protected. . . The Office of the Employee Ombudsman is performing successfully to a level which strives to meet the objectives set out in section 62 of the Industrial and Employee Relations Act 1994. This includes ensuring that employees are aware of their rights and obligations, and the investigation and representation of employees cases where required.

One can only surmise that the cut to the budget of the Office of the Employee Ombudsman has more to do with appeasing unions than with its obvious effectiveness in representing workers. Maybe that is the problem: it is too good at its job. My questions are:

1. As the Office of the Employee Ombudsman is successfully meeting its objectives, why has the government decided to cut its budget?

2. Considering that the office is under more pressure now than ever to assist employees, with union membership at record lows, will the government consider not only reinstating its budget but also giving it the necessary resources required to handle its increasing workload; if not, why not?

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.

STATUTES AMENDMENT (GAS AND ELECTRICITY) BILL

(Continued from 29 May. Page 2494.)

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I remind members that when we last met on Thursday afternoon the Leader of the Opposition was not here, but I placed on record a series of answers to questions that he had raised previously during the committee stage. I trust those answers have adequately addressed the needs of the honourable member.

Clause passed.

Clauses 2 to 26 passed.

Clause 27.

The Hon. R.I. LUCAS: I want to place on record the advice I received in relation to this clause. In the briefing on the provisions of this bill I had asked questions about whether or not the minister was able to use the amendment to clause 33(2) to direct, for example, the commission in a price determination to take into account a factor such as an increase no greater than the CPI or some quantitative cap in terms of the price increase for gas. I received the following advice from the Ministerial Adviser for Energy, Ms Susie Duggin, on 22 May:

> Dear Mr Lucas,
>
> You asked for advice regarding clause 27 of the Statutes Amendment (Gas and Electricity) Bill 2003, in particular the proposed new clause 33(2)(a), which refers to factors to be taken into account by the commission in making a determination in addition to those that the commission is required by the Essential Services Commission Act 2002 to take into account. Advice from the Crown Solicitor's Office confirms that this wording does not support the view that the minister may direct the commission in relation to the quantum of a price determination.

It was remiss of me not to place that advice on the public record. I seek to clarify the government's response to this. The early part of the reply from the minister on clause 1 of the bill seems to imply and crown law confirmed that there is not the power to direct the commission to take into account a cap of some quantum in relation to price determination. I must admit that I do not currently have the advice before me, but the last paragraph canvasses the possibility that, if this subclause could be read to allow the minister to issue such a determination or direction to the commission, then the minister had no intention of doing so. With what respect the minister's position is entitled to, I must be honest in saying that I would not trust the minister as far as I could drop kick him.

The reality is that it is not an undertaking that is given by ministers in their interpretation of the bill, frankly, it is what the legislation actually outlines that we need to be clear on. The advice authorised by the minister to be given to me on 22 May seemed to be unequivocal that the advice from the Crown Solicitor's Office confirmed that this wording did not support the view that the minister may direct the commission in relation to the quantum of a price determination. That seems quite unequivocal: the crown law advice has made it unequivocal, yet the advice provided by the minister in charge of the bill in this chamber seems to be equivocal when one looks at the final paragraph of the advice placed on the public record.

That is words to the effect that, even if it could be interpreted that way then, as minister, this particular minister says that he has no intention of issuing a directive to take into

account such a factor. It is important in relation to this key clause to confirm what the crown law advice is. Was the crown law advice as authorised by the minister to be given to me by his adviser on energy on 22 May, which I placed on record, or is the crown law advice the advice that has been placed on the *Hansard* record by the minister in charge of the bill in this place when he spoke on clause 1 of the bill?

The Hon. P. HOLLOWAY: Perhaps I should put the crown law advice on the record, and this should dispel it all. It reads:

> In my opinion, the meaning of the phrase 'factors to be taken into account by the commission in making a determination' is clear on its face. The provision means that the minister may direct the commission to take certain matters or factors into account in the making of the commission's price determination. The price determination is that of the commission, and the minister only has power to insist that the commission turn its mind to certain factors during the process of making its price determination.

We believe that is quite unequivocal. I think that I prefaced the comments the leader was referring to the other day with the word 'if'. I said:

> The honourable member suggests it might be possible to interpret a factor as a cap on retail prices not greater than the CPI. If that is so, the Minister for Energy wants to make it plain he has no intention to direct the Essential Services Commission to consider such a factor.

So, in a sense I have given a double undertaking. Not only have we given the legal advice, which is unequivocal, but we have said that, even if it turned out not to be the case, it would not be used anyway.

The Hon. R.I. LUCAS: In terms of the statement the minister has just read, did the crown law advice indicate that there was the capacity for this particular clause to be interpreted in the way that I raised?

The Hon. P. HOLLOWAY: My advice is that we have not asked the Crown Solicitor to interpret whether a cap on retail prices not greater than the CPI is a factor in the terms of this clause.

The Hon. R.I. LUCAS: If that is the case, how then does the minister explain the advice I received, authorised by the minister, on 22 May? Answering my question, the minister's energy adviser, authorised by her minister, said:

> Advice from the Crown Solicitor's Office confirms that this wording does not support the view that the minister may direct the commission in relation to the quantum of a price determination.

That is the advice I was given after a briefing and request for information by the minister's adviser on energy. That is contrary to what the minister has just indicated to the committee.

The Hon. P. HOLLOWAY: I have read the relevant crown law advice. That really is the accurate basis, so I really cannot go beyond that as the basis for the government's provision. The government has acted on advice, and that is the advice that I have already read out, and I am happy to read it out again. That is the relevant advice that the government has.

The Hon. R.I. LUCAS: I am still struggling to understand exactly what the advice from the Crown Solicitor is to the government. Is the minister saying to the committee that crown law has not been asked to give an opinion as to whether or not under clause 33(2), when we talk about factors to be taken into account, the minister could direct that one of the factors the commission should take into account for a price determination is that the increase should not be greater than the CPI increase, for example? Is the minister saying that crown law has not been asked to give any advice on that question?

The Hon. P. HOLLOWAY: I am advised that that is correct. I believe that, on reflection, that advice was probably not as accurate as it could have been but, given that I have read out the actual crown law advice, that should make quite clear what the Crown Solicitor's advice is.

The Hon. R.I. LUCAS: I will clarify. Is the minister saying that I have been misled by the minister's senior adviser on energy in the following statement, that is:

> Advice from the Crown Solicitor's office—

it is unequivocal—

> confirms that this wording does not support the view that the minister may direct the commission in relation to the quantum of a price determination.

Is the minister saying that as a member of this chamber I have been misled by the minister's ministerial adviser on energy?

The Hon. P. HOLLOWAY: All I can say is that I am advised that that is not, strictly speaking, accurate.

The Hon. R.I. LUCAS: I think it is just an appalling state of affairs that the minister is now standing up in this chamber and indicating as a member of this committee that minister Conlon's senior adviser on energy, working on his authorisation and instructions, has misled me as a member of this committee in relation to advice from the Crown Solicitor's Office. It is absolutely extraordinary that we can have a situation where we get to this stage of the debate and I have now raised questions over two separate occasions last week making it quite explicit what the opposition's questions were. I met with the minister's advisers on this issue a couple of weeks ago in the interests of trying to expedite these issues and saying this was a key issue for the opposition in relation to processing these clauses, and I received advice which I took on good faith.

As I said, it was remiss of me not to have read it into the *Hansard* record when I was making my second reading contribution, so I sought to place it on the public record today. The reason I did so is that, when I got the answers on 29 May, there were, if I might use the phrase, 'weasel words' in relation to the impact of these clauses and how they might be legally interpreted. For example, the minister stated:

> The word 'factors' allows for wide interpretation. The honourable member suggested that it might be possible to interpret a factor as a cap on retail prices not greater than the CPI. If that is so, the Minister for Energy wants to make it plain that he has no intention to direct the Essential Services Commission to consider such a factor.

Earlier on, the minister said:

> In reaching a price determination, the Essential Services Commission must take into account not only any factors specified by the minister but also matters specified in parts 2 and 3 of the Essential Services Commission Act 2002. Those matters include the particular circumstances of the regulated industry and the goods and services for which the determination is being made, the costs of making, producing or supplying the goods or services, any relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries and the financial implications of the price determination. It is also worth stating that, in performing its price regulatory function, the Essential Services Commission must consider its primary objective which is to protect the long-term interests of the South Australian consumers with respect to the price, quality and reliability of essential services.

Without reading all the advice that the minister put on the record, he was responding to an explicit question from me as to what legal advice had been provided to the government in relation to how these factors might be interpreted. I was fortified in the knowledge that I had received from the minister's senior ministerial adviser on energy advice that they had sought advice from the Crown Solicitor's Office confirming that my concerns were in fact without foundation.

That is, they had Crown Solicitor's advice indicating that the wording did not support the view that the minister could direct the commission. It is quite clear that it was not the view of the minister, the view of the minister's energy adviser or the view of any other of the minister's advisers, whether they be legally based or not—and the minister has legal training himself: it was indicating that independent advice from the Crown Solicitor's Office had indicated that concerns I had been expressing did not have any foundation.

I do not have opposition responsibility for the legislation: Wayne Matthew, the member for Bright, has legislative responsibility. I will leave it at this: it is just the most appalling set of circumstances that I can imagine that we now have a minister in this chamber—and I have no direct criticism of him in relation to this issue—who on behalf of his colleague is now indicating that his colleague and his colleague's adviser have misled me in relation to the most critical aspect of the legislation from our viewpoint. I place on the record my disgust at the minister's performance and that of his adviser and his office in relation to this and certainly place on the record my concern that as a member of this committee we have been misled. I do not know whether that was by accident or by deliberate intent; I would hope it is not by deliberate intent that we have been misled. I made some earlier comments on the record about the minister and, certainly, now that I have established this, I stand very strongly by my earlier statements. For the minister and his adviser to mislead a member of this parliament in this way is completely unacceptable.

The Hon. P. HOLLOWAY: What we are arguing about is really an issue of semantics. The note from the minister's office says that advice from the Crown Solicitor's Office confirms that this wording does not support the view that the minister may direct the commission in relation to the quantum of a price determination. The Crown Solicitor says that the price determination is that of the commission, and that the minister only has power to insist that the commission turn its mind to certain factors during the process of making its price determination.

I guess one could argue that those two statements are compatible, that they are not necessarily in conflict. The point, as I understand it—and I can only rely on the advice I am given—is that the commissioner cannot be directed in relation to a particular price; he can only be instructed in relation to the process of making a price determination. I think the leader asked whether the Crown Solicitor had been specifically asked in relation to this matter whether quantum was a factor, and I think I said that my advice was no. However, one would think from the Crown Solicitor's statement that the price determination is that of the commission, and the minister only has power to insist that the commission turn its mind to certain factors. I would have thought that that is not necessarily inconsistent with the advice that has been given.

We could debate this for the rest of the day, but I think it is really a matter of semantics as to whether or not the quantum of a price determination is a factor. I suppose that is really the argument here, but I would have thought that the advice I read out from the Crown Solicitor is as clear as crown law advice can be. I think it was probably reasonable for the minister's officer to draw that conclusion from the opinion of the Crown Solicitor, which I have read out. I have read into *Hansard* the comments of the minister's office and the relevant opinion of the Crown Solicitor, and I will leave it to members to determine whether the two are reasonable.

I also make the point that, when the commissioner is requested to take a factor into account, he must consider that factor, but he may then reject it. I think that is another important point to make. I am advised that the commissioner, even if the minister did direct him to take a factor into account, can reject that factor. So, I think that confirms the view that the minister may not direct the commission in relation to the quantum of a price determination, if by that one means that the minister cannot say to the commission: 'Put a particular price.' I really think it is a matter of semantics, and I hope from the information that I have placed on the record—I have even taken the step of reading out that particular advice—it should be clear exactly what the situation is.

The Hon. R.I. LUCAS: I do not intend to prolong this—this will be my last contribution—but the minister confirmed in response to my earlier questions that the advice I have been given by the ministerial adviser is, to use his word, 'incorrect' or 'inaccurate'. It is as simple as that: 'incorrect' or 'inaccurate', whatever *Hansard* shows. That is a kind way of putting it. In my view, it has misled me (as a member of this chamber) in relation to this issue. I put specific questions to the minister's advisers in relation to this issue. I asked whether or not they had legal advice and, if they did not, would they get legal advice from crown law on the issue of whether or not factors could be interpreted in this way. I got an email from the ministerial adviser (authorised, I assume, by the minister) which says that advice from the Crown Solicitor's office confirms that this wording does not support the view that the minister may direct the commission.

It is clear (having asked my questions and received that answer) that that answer was intended to mean: 'We have taken advice from crown law, and crown law says that the sorts of concerns that you have expressed are without foundation.' The minister can try to reconstruct or reinterpret the events as he chooses; I will leave it at that. The statements I made just prior to his last contribution form a very clear and succinct summary of my very strong views about this minister and this government regarding this particular issue.

The Hon. P. HOLLOWAY: I make one final point. The minister cannot direct the Essential Services Commission to make a specific price determination—I think that should be quite clear; the minister can only direct the Essential Services Commission with respect to factors to be taken into account. To me, being a simple layperson with no legal training, you might ask the Essential Services Commission to take the quantum into account, but that is different from directing the commission to make a specific price determination. I think it is on this fairly semantic point that this debate turns. I believe that the advice that was given to the leader (I think in that context) is not unreasonable. It is perhaps somewhat loose, but it is not unreasonable.

The minister's officers have tried to clarify the situation. There is no reason why the minister would not support it. I have even gone to the not quite unprecedented but unusual step of reading the crown law advice into *Hansard* to try to make it as clear as possible. I hope that clarifies the situation and makes it clear that the minister and the government are not trying to hide anything. We are trying to assist the debate in relation to this issue, but it has really got down to a pretty semantic level.

The Hon. R.I. LUCAS: I will not pursue that issue; it is certainly not semantic from my viewpoint. The other part of the minister's response was to place on the record the recent price increases approved by ministers under the current

arrangements. It is worth while noting for avid readers of the committee stage of these debates that, in the previous four years prior to this government's being elected, the average price increase seemed to be just under or at about 3 per cent in terms of annual gas prices that were being approved: in 1998, 2 per cent; in 1999, 3 per cent; in 2000, 3.2 per cent; and in 2001, 3.3 per cent.

It is interesting to note the two increases that have been approved by Minister Conlon (last year, 6 per cent and this year I think 5.6 per cent). So, in each of the last two years, we have seen price increases almost double the size of the price increases (on average) over the last four years. The minister said that the gas company asked for an up to 12 per cent price increase but that he only authorised about half of that. Former ministers have indicated to me that, similarly, the increases that they approved were significantly less than those requested by the gas company.

The other point I make—and repeat—in summarising the minister's responses to this issue is that we are, of course, talking about an essential utility which was privatised by a Labor government supported by Minister Holloway, Minister Foley and Minister Rann (in previous lives) and other members of the Labor government. So, it is interesting to note this government's view about the privatisation of essential utilities (in particular, the gas industry) as opposed to their oft proclaimed concerns about the privatisation of the electricity industry and how is essential to keep essential services such as electricity in public ownership. I will not waste the time of this committee by exploring what the difference is between the essential services of gas and electricity for many dual-fuel homes and businesses.

The Hon. P. HOLLOWAY: Just for the record, in relation to the table that I have had incorporated in *Hansard*, on 1 July this year a 3.46 per cent overall increase is proposed. Of course, there are two components of that: there is the residential rate, which is a maximum of 5.6 per cent; and a reduction of 5.7 per cent for business customers.

The Hon. R.I. Lucas: What is the equivalent to the 6 per cent? Is it 5.6 per cent?

The Hon. P. HOLLOWAY: I am advised that it is 3.46 per cent if one takes account of the adjustments, reductions and increases. That is the overall maximum.

Clause passed.

The CHAIRMAN: During the committee stage, members can become frustrated from time to time. Obviously, when you are given advice and it proves to be ambiguous in any way, you get frustrated. The Hon. Mr Lucas asked whether he may say 'weasel words' when referring to advice given by an adviser. In the past he—and I think honourably so—always defended his officers when he was a minister. It is unusual and unnecessary to attack officers working for a minister. They are not able to defend themselves. Acrimony directed at ministers is part of the job. I ask all members to take that into consideration when making contributions during committee.

The Hon. R.I. LUCAS: Just on that matter, Mr Chairman, I will address your concern by indicating that you have certainly misunderstood my criticism. I was referring to the weasel words used by the minister, not by the minister's adviser. Mr Chairman, if you or anyone else has the impression that I was criticising an adviser, let me hasten to add that my criticism was appropriately directed at the minister and certainly not at his adviser.

The CHAIRMAN: I appreciate that explanation, as I am sure will all other readers of *Hansard.*

Clauses 28 to 34 passed.

Clause 35.

The Hon. R.I. LUCAS: Will the minister outline exactly the impact of the change contained in clause 35(1), where the Technical Regulator is removed and the commission is interposed? Some concern has been expressed to the opposition on this issue. The opposition has not raised the issue in another place through the shadow minister.

The Hon. P. HOLLOWAY: The short answer to the question is that this amendment is proposed to match a similar provision in the Electricity Act, in particular section 39—'Appointment of operators.' In other words, this mirrors that provision in the Electricity Act.

The Hon. R.I. LUCAS: As I understand the provisions in the parent act—the Gas Act—we are canvassing the set of circumstances where a gas entity contravenes the act or a gas entity's licence ceases or is to cease to be in force and it is necessary, in the Technical Regulator's opinion, to take over the entity's operations—or some of them—to ensure an adequate supply of gas to consumers. Therefore, it is related to some amendments in clause 34 of the bill, which amends section 39 of the act.

As I understand it, in the past it has been in the Technical Regulator's power to make decisions in relation to these dire circumstances where you have a gas entity and, for whatever reason, it has contravened the act or its licence will cease or it will be penalised. I assume it canvasses the possibility where a gas entity goes out of business, goes into liquidation or whatever. It used to be the decision of the Technical Regulator to appoint a suitable person to take over the relevant operations.

As the minister has just said, given that this act is now predicated on trying to replicate the circumstances in the electricity industry, what will be the role of the Technical Regulator—if any at all—in these circumstances? Some technical issues may well relate to a particular gas entity's capacity to operate and operate properly or appropriately, and that body of expertise may or may not be available to the Essential Services Commission. What is the government's intention in relation to any role of the Technical Regulator in these circumstances, or is the Technical Regulator to be sidelined completely from any role during consideration by the commission about appointing an operator?

The Hon. P. HOLLOWAY: The amendment is simply to change the name from the Technical Regulator to the commission. It is merely a change in name not, I am advised, in the powers and functions to be exercised. If there were to be a safety and technical issue, obviously one would expect that the Essential Services Commission would consult with the Technical Regulator in relation to that matter. Of course, that would be up to the Essential Services Commissioner.

The Hon. R.I. LUCAS: It may well be that this is incapable of providing a comprehensive reply, but when one looks at the amendments to clause 39, we are talking about a set of circumstances where, in the past, 'it was necessary in the technical regulator's opinion to take over the entity's operations to ensure an adequate supply of gas to consumers', but we are now talking about its being in the opinion not of the technical regulator but of the Essential Services Commission. Whilst the minister indicates that this is just a change of name from 'technical regulator' to 'Essential Services Commission', previously the role in relation to these issues was the opinion of the technical regulator, but this will now be the opinion of the Essential Services Commission.

All I am seeking to establish—and I do not intend to seek to delay the passage of the bill; if the minister wants to take it on advice and correspond with the opposition even after passage of the bill, I am relaxed on this one—is just what is the intended role, if any, of the technical regulator? In the past it was the judgment of the technical regulator: it will now be the Essential Services Commission. What, if any, will be the role of the technical regulator in the set of circumstances that we are canvassing at the moment?

The Hon. P. HOLLOWAY: Obviously, if the clause is passed, the Essential Services Commission will have the role, and the Essential Services Commission is an independent authority. Perhaps it just comes down to commonsense and obviously, if it relates to safety and technical issues, one would expect that the technical regulator would talk to the Essential Services Commission, I mean, that is obviously the case. In relation to the effect of the act, obviously, with these changes, the role shifts to the commission.

The Hon. R.I. LUCAS: I still do not believe that answers the question, but clearly we will not get anything more than that. When one looks at the further provisions of the parent act that follow this amendment to section 40(1), there are provisions in relation to dispute resolution where, if a dispute arises as to the activities of a gas entity, the technical regulator may be asked to mediate in the dispute. Given that it is the government's intention in a number of these areas that the technical regulator have its powers removed and the commission be the body to take over the responsibilities of the technical regulator in a number of the clauses in the bill, is the minister in a position to indicate why the government decided to leave the technical regulator with the dispute resolution issue as opposed to the commission?

The Hon. P. HOLLOWAY: The question that was asked by the Leader of the Opposition was essentially: why is the dispute resolution clause being deleted? I am advised that the dispute provisions are now included in licence conditions, and there are a number of these in the bill. Clause 19 of the bill relates to section 26(1)(g) which addresses disputes between gas distributors and customers; clause 19 relates to section 26A(2)(h), which addresses disputes with respect to the retailer; and I believe that there is one more. Anyway, essentially those two sections cover the disputes between the gas distributor and customers, and also with respect to the retailer.

Clause passed.

Clauses 36 to 63 passed.

Clause 64.

The Hon. R.I. LUCAS: I move:

Page 34, lines 40 and 41—delete clause 7 and substitute:
Expiry of schedule
7. This schedule will expire on 30 June 2004.

This is a relatively simple amendment. Schedule 2 is a transitional arrangement in terms of price fixing. In my second reading contribution I raised this issue about what the government's approach would be should the opposition move an amendment to sunset this particular provision at 30 June next year. I think it is fair to say that, in the end, the government's position was that it would prefer the bill to stay as it is at the moment, just in case. Certainly, from the opposition's viewpoint, no persuasive case was made as to why it should be open ended. Certainly, if there were circumstances (which we cannot foresee at this stage) where it needed to be extended beyond 30 June, then the opposition has indicated—and I do so again today on behalf of the shadow minister—if this amendment is successful, a willingness to extend the price fixing arrangements.

However, as the minister's response alluded to, it is certainly incompatible with the rest of this legislation which the government has put in place for these schedule 2 powers to continue for an inordinate length of time. Certainly 30 June 2004 is an extended period. We are talking about almost 13 months with transitional price fixing powers, and it is certainly the opposition's view that that is more than enough, but, in the end, in the unlikely circumstance that it is not, that is something that could be canvassed by way of further legislative change.

Leaving this as an open-ended power, that is by proclamation, with no say by parliament at all, not even by regulation disallowance provisions, could the parliament express a view that these temporary powers could be extended for an indeterminate length of time? This is certainly incompatible with the way the Legislative Council has approached these issues in the past. On most occasions it has tended to adopt the view of having, at the very least, a regulation power where it might be disallowable, or setting a fixed time for these transitional provisions. Certainly, the notion of allowing an open-ended power to the executive arm of government to continue these transitional powers, with no say at all by the parliament, is not the normal course of events in relation to these issues.

The Hon. P. HOLLOWAY: As I indicated the other day, the government does not support the amendment. The government has signalled its intention very clearly about how the temporary price-fixing provisions will apply, and the need for flexibility in them. The government is of the view that there is no need to amend clause 64. In response to previous queries on clause 64 concerning the temporary price-fixing provisions by the Minister for Energy, I indicated that there could be difficulty if both the temporary price-fixing provisions and the price justification and price determination provisions operated concurrently. As I have indicated, a 'go live' date is not yet set, although the government is keen for it to be set as early as possible and is currently working with industry to achieve a first-half of 2004 so-called 'go live' date.

However, given that there is no certainty of the 'go live' date, the government believes that flexibility is needed in relation to a sunset date for clause 64. For example, there are many hundreds of tasks yet to be completed by industry, and so the 'go live' date is therefore fluid. Obviously, the government wants this to start as soon as possible, but I think in an area as complex as this, and given those industry tasks, we can give no guarantee that it would be completed by then, even though we would want that to be the case, and we will work as hard as we possibly can for that to be the case.

I think we all know how difficult it is implementing some of these things. In relation to bills passing parliament, the Leader refers to a period of 13 months, and, yes, by the time this is passed and proclaimed it is not going to be much less than 12 months. But, obviously, we would like it to be finished a lot sooner than that.

The Hon. SANDRA KANCK: I would like to record my concern that the opposition has landed this amendment on us with no prior notification. Basically, I found out accidentally that we are dealing with this amendment. It was put on file at the end of question time. There has been no attempt by anyone in the opposition to speak with me about it, and therefore that does not allow me the opportunity to consult

with anyone about it. Under those circumstances I will be opposing the amendment.

The committee divided on the amendment:

AYES (10)

Cameron, T. G.	Dawkins, J. S. L.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I. (teller)	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.

NOES (11)

Evans, A. L.	Gago, G. E.
Gazzola, J.	Gilfillan, I.
Holloway, P. (teller)	Kanck, S. M.
Reynolds, K.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

Majority of 1 for the noes.

Amendment thus negatived; clause passed.

Remaining clauses (65 to 78) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (ABOLITION OF TIME LIMIT FOR PROSECUTION OF CERTAIN SEXUAL OFFENCES) AMENDMENT BILL

The Hon. A.L. EVANS obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935. Read a first time.

The Hon. A.L. EVANS: I move:

That this bill be now read a second time.

Family First is pleased to reintroduce this bill. I first introduced this bill in this place last year. I refer members to my second reading explanation, which relates to the bill and which was delivered on 10 June 2002. The bill currently before the council is precisely in the same terms as the bill I introduced previously. In brief terms, the bill operates to remove an immunity that currently exists for certain sexual offences if the offences were committed prior to 1 December 1982.

It was decided the bill raised a number of issues that required further investigation, and the government moved a motion for a select committee to be set up. The motion was passed and the select committee was formed. I refer members to the terms of reference for the committee recorded in *Hansard* on 29 August 2002. In summary, the committee was asked to explain the merits, or otherwise, of my bill, specifically in relation to issues of retrospectivity and matters of proof.

The committee comprised the Hon. Gail Gago (who was chair), the Hon. Robert Lawson, Mr John Rau, Mr Joe Scalzi, Ms Gay Thompson and me. I acknowledge the efforts of each one of the members. I was encouraged by the efforts of everyone to come to a satisfactory outcome. I also acknowledge and thank Chris Schwarz, the secretary to the committee, who helped me on more than one occasion to come to terms with the ins and outs of the committee process. The committee took evidence and deliberated over a period of nine months. I refer members to the final report, which was tabled on Wednesday 28 May 2003. The main recommendation was as follows:

. . . the reintroduction and passage of the Criminal Law Consolidation (Abolition of Time Limit for Prosecution of Certain Sexual Offences) Amendment Bill 2003.

It was considered by the committee that this recommendation adequately addressed all the terms of reference. I reiterate that it would be a very useful exercise for members to read the committee's report, especially the comment concerning retrospectivity and issues of proof. I look forward to the smooth passage of this bill and commend it to members as a fair and just measure that is long overdue.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Sexual offences are almost hidden crimes. A person in a position of power forces or persuades another person to submit to unwanted or illegal sexual contact. This sort of thing does not normally happen in front of witnesses. It is usually secretive. Therefore, although the criminal law has always viewed these matters very seriously, it is notoriously difficult for police, prosecutors and a court to find out what really happened and who is telling the truth. When adults are involved there might be a difficult question about whether there was consent for any sexual contact. When children are involved, consent is irrelevant. However, there are also great difficulties in putting a child up against an adult in an adversarial setting, especially when the prosecution needs to prove the child's version of the story beyond reasonable doubt.

The unfortunate reality is that the great majority of reported sex crimes go unpunished by criminal law. The government is acutely aware of the trauma that many victims have suffered; firstly, at the hands of the sex offender and, secondly, when they realise that the offender cannot be rendered accountable under criminal law. This problem is not unique to South Australia. It is a problem all over the world because of the nature of sexual crimes. We are still learning how to address this problem. In recent years, great strides have been made in acknowledging the extent of the problem, offering support to victims and changing some court processes to reduce the stress and intimidation many victims feel when they encounter the criminal justice system. This process is continuing and the government is always willing to listen to suggestions on how it can be further improved. This must be done, of course, while maintaining the right to a fair trial and the presumption of innocence for any accused person. Many victims, understandably, are frustrated and upset by what they see as the law's ineffectual attempts to bring sexual offenders to justice.

Although the law seems to move at glacial pace, it is possible occasionally to take a step back to see how it has changed over a considerable time. For example, the committee's report is valuable as an indicator of how much the public attitude to sexual offences has changed over five decades. Some 51 years ago, in 1952, this parliament decided, without a single dissenting voice, that if sexual offences had not come to the attention of the prosecuting authorities within three years, then they should remain forever beyond the reach of criminal law. In short, the view of the day was that these matters were best swept under the carpet and forgotten. If a sex offender could keep the matter hidden for three years, or more, then he was to be forever beyond the reach of criminal law.

Some 33 years later, in 1985, again without a single dissenting voice, this parliament decided that the policy of 1952 was wrong, and that there should be no statute of

limitations on sexual offences. From our standpoint in 2003, we rightly wonder why it took 33 years to come to that 2544conclusion. In 1985 parliament made this change unanimously. However, in 1985, there was no discussion by any member of the parliament on how the change would affect those sexual offenders who had acquired immunity from prosecution in the preceding 33 years. Here we are today, 18 years further on, and we are now considering the effect of what the parliament in 1985 did not debate at all. Once more, a total change has been achieved.

A joint committee of this parliament has recommended, again without a single dissenting voice, that any immunity from sexual offences acquired between 1952 and 1982 should be abolished. The government would not be surprised to find that, when legislation is introduced to implement the committee's recommendations, the new bill too will now be supported without any dissent. It is not surprising that attitudes to sexual offences have altered over time. What is surprising is that, each time attitudes have changed, this parliament has made changes unanimously without any voice querying the policy of the day. Perhaps this is an example of what psychologists call 'group think', a defective decision making process whereby a group examines few options and fails to consider alternatives.

It is tempting to wonder whether the joint committee that produced this report or the parliament itself in 2003 might be guilty of 'group think' again on this same issue. We hope that we are finally getting this matter right, but we cannot know how attitudes towards the prosecution of sexual offences might change again in the future. Nevertheless, there is some objective evidence that, if members of this parliament do endorse the principal recommendations of this committee and abolish any immunity from prosecution for sexual offences, we will not merely be rushing into another defective legislative policy. For a start, the committee's report considered more material and many more arguments than the parliament considered in either 1952 or 1982. The committee has had the benefit of reading personal accounts of many sex offence victims and some former accused, along with expert opinion provided by many who made submissions.

The joint committee carefully considered one by one eight separate arguments against and nine separate arguments in favour of removing the immunity.They left no stone unturned and no argument unexplored. On the one side, the issues of recovered memories, false allegations and retrospective removal of rights were examined. On the other side, the committee considered the silencing of victims, the need to sentence admitted offenders, and the special meaning of the proposed change to the victims and survivors of sexual crimes. Importantly, the committee members also realised the limitations of what they were asked to do. They have given an appropriate caution in several places in the report that there are considerable barriers to the successful prosecution of sexual offences committed more than 20 years ago. The government also acknowledges this.

Nevertheless, the government has accepted all the joint committee's recommendations. There were four recommendations in total. First, the joint committee recommended the passage of the Criminal Law Consolidation (Abolition of Time Limit for Prosecution of Certain Sexual Offences) Amendment Bill 2002, introduced by the Hon. A.L Evans last year. The government has decided not to wait for that bill to be reintroduced but will introduce its own bill in identical terms as soon as possible in the House of Assembly. The government has also agreed to the committee's second recommendation, 'to assess the need for additional resources to agencies that will handle an anticipated backlog of sex offence allegations pre-dating 1 December 1982.'

The committee's third recommendation was that 'persons who report being the victims of sexual offences before 1 December 1982 be strongly advised that, for reasons given in the report, the chances of obtaining convictions for these offences are at best minimal and probably remote.' By tabling its report the committee has implemented its own recommendations, as this fact is now a matter of public record. Finally, the committee's fourth recommendation was, 'to investigate alternative methods of appropriately responding to allegations of sexual offences to empower victims and prevent reoffending, without minimising the serious nature of the crime.' The government intends to undertake to immediately commence that process of investigation within the Justice Department of the Attorney-General's office.

The Hon. R.D. LAWSON: I support the second reading of this bill and commend the Hon. Andrew Evans for its introduction, and also commend him for having raised this issue in the first place last year. I want to accord full credit to him for bringing this matter to the attention of the parliament. I think it is a matter for some little regret that the government seems to be keen to make some political point in indicating its support for the bill, with the government endeavouring to suggest that my party is or was against this measure. We wholeheartedly support it. The member for Hartley (my colleague Joe Scalzi) and I were members of the joint committee chaired by the Hon. Gail Gago, and we fully endorsed its recommendations. I commend the chair (Hon. Gail Gago) and members of the committee for the way in which this committee worked and for the expeditious manner in which a report was produced.

It is not often realised that many parliamentary committees in this parliament do not produce reports of the quality which was produced on this occasion and which was tabled on 28 May this year. That is either because the committee members are not as diligent as those committee members on that particular committee or because the committee does not have the capacity or resources to obtain the necessary evidence and cooperation. On this occasion, the committee did receive a good deal of evidence. It was assisted by Chris Schwarz as secretary, in his usual efficient way, and I particularly want to commend Shane Sody, the research officer appointed to the committee, who performed sterling work in summarising the evidence and also in producing a report that is a valuable contribution to the public debate on this issue.

I commend the report to members, because it contains cogent reasoning for the abolition of this anomalous provision. There is no series of criminal offences in our criminal law that have any immunity from prosecution based upon time. In other words, there are no time limits for the prosecution of any offences, be they murder, bigamy, sacrilege, robbery, larceny or the like. All criminal offences under the law of this state are prosecutable at any time. It was an anomalous position that arose, as has been noted, in 1952 when the Criminal Law Consolidation Act was amended to provide for a three-year period of limitation for the prosecution of sexual offences. That meant that from the passage of that amendment all offences committed before 1949 were not capable of being prosecuted.

Of course, as the years went on, the three year period advanced. In 1985 the undesirability of a provision of that kind was recognised by this parliament and the three-year

time period was abolished. At the time of the passage of that amendment in 1985, any person who had committed a sexual offence prior to 1982 had received immunity from prosecution and, at the time, parliament did not see fit to remove that immunity. That immunity has continued to this day.

I should say that the introduction of the three-year time limit in 1952 was based upon a report prepared by a number of eminent gentlemen—and they were all men—which report is notable for what now would be regarded as the insensitivity with which these matters were considered, not only these particular matters but also matters relating to homosexuality and certain other issues. The fact that parliament in 1985 chose not to remove the immunity is something that I regard as regrettable; the courts, however, were quick to rule that the 1985 amendments did not have retrospective effect and that the immunity to which I have just referred remained.

It is important that the parliament recognise that the removal of this bar to prosecution may not have the beneficial results that many of the victims of sexual crimes committed before 1982 and their advocates hope for. The Director of Public Prosecutions gave evidence to the committee, and his written report on this issue is appended to the report which was tabled. The Director of Public Prosecutions, Mr Rofe, was very frank in his evidence to the committee and indicated that he regarded it as being very difficult for any prosecution for a sexual offence committed before 1982 to be now proceeded with. He felt as a matter of compassion for victims that they should not have their hopes unrealistically raised about the possibility of successful prosecution. Mr Rofe set out in his letter some of the reasons why, and those reasons include the fact that he as Director of Public Prosecutions would have to be satisfied on the evidence which is now available that there would be a reasonable prospect of a jury convicting. He drew to the attention of the committee that any person accused of a crime in these circumstances would have the right to apply for a stay of proceedings, and he drew attention to the fact that the legal authorities are, generally speaking, supportive of stays in circumstances where certain tests are satisfied.

He also pointed out that, on any trial in such a matter, the judge would be bound to give certain directions about the fact that delayed complaints should be viewed in a circumspect manner by juries. Mr Rofe was in no way dismissive of the concerns of victims—in fact, he expressed a good deal of compassion for them—but he did not want to raise hopes unrealistically. The committee was very mindful of that fact, and in the summary at the beginning of our report the committee was careful to ensure that hopes were not unrealistically raised. The committee said:

> . . . the committee emphasises that if parliament does remove the immunity the barriers to obtaining a conviction in a trial for a sexual crime dating back more than 20 years are considerable. The Director of Public Prosecutions does not commence a prosecution unless there is a reasonable prospect of conviction. To obtain a conviction a case must be proved beyond reasonable doubt. When allegations are more than 20 years old it is very difficult to discharge that onus. There are many barriers to a successful prosecution in such cases. Evidence has probably been lost or destroyed. The long delay will make it extremely difficult and in many cases impossible to obtain a fair trial. To prevent an unfair trial the courts have power to order a permanent stay of proceedings. If a trial goes ahead in the absence of evidence to support the complaint of the alleged victim, the judge must warn the jury that it is dangerous to convict on this evidence alone. For all of these reasons the committee points out that many allegations of sexual crimes occurring before 1 December 1982 will not be prosecuted, even if the immunity is removed. This should in no way diminish the seriousness of the offence and the pain experienced by the victim.

I do, however, believe that it is appropriate to provide some other form of redress or relief to the victims of crimes committed before 1982.

The Hon. Diana Laidlaw: In addition to the legislative amendments?

The Hon. R.D. LAWSON: Yes, in addition to the legislative amendments proposed in the Hon. Andrew Evans' bill. Any person who was the victim of such an offence would no longer have—if they ever had—an entitlement to criminal injuries compensation. There are several reasons for this. First, our system of criminal injuries compensation, now embodied in the Victims of Crime Act, is based upon the recording of a conviction, although the act does provide that in certain circumstances compensation can be paid where there is no conviction. However, any claim made for compensation must be made within three years of the date of the offence and, in any event, our act only applies to offences committed since 1 July 1978. The act does allow the Attorney-General in his absolute discretion to make an ex gratia payment to a victim who fails to meet the eligibility criteria.

These claims are not very numerous and, to my knowledge, the general rules that are applied do have an element of stringency about them. However, the important thing to note is that an ex gratia payment by the Attorney-General is a payment made under ministerial discretion. I believe and the Liberal Party believes that payments of compensation to victims of crime in these circumstances ought be not a matter of grace but a matter of legal entitlement. We believe it would be appropriate in these circumstances to amend the Victims of Crime Act to confer a special right to compensation on those people who have been adversely affected by the statutory bar, which has now been in place for many years.

This matter was briefly discussed in the joint committee. However, it was not within the terms of reference of the committee to pass judgment upon matters of compensation. Of course, it might be said that any victim of a sexual crime in 1982 could make a civil claim against the offender. However, once again there are statutory time limits which could be raised against any civil claim. Whilst the Limitation of Actions Act does allow a person wishing to make a claim to apply for an extension of time in which to make that claim, special rules have to be satisfied. We are not in favour of throwing these particular victims of crime onto the civil justice system. This is a special class of victim for whom a special right ought to obtain.

I will seek to introduce a bill to amend the Victims of Crime Act to include a special right of compensation for the victim of a sexual offence which was committed before 1982 and in respect of which no prosecution was launched before 1985. This will be a right to apply to the court. It will be necessary for a victim to satisfy the court on the balance of probabilities that the offence was committed, that the victim suffered physical or mental injury (including mental or nervous shock or a psychological or psychiatric reaction), and that the matter was not reported or prosecuted for good reason: for example, the victim was aware that the offender could not be prosecuted.

It will be proposed that the right to claim compensation from the court can be exercised after the Attorney-General has refused to make an ex gratia payment (if an application is there made first) or in circumstances where the victim does not accept an ex gratia payment offered by the Attorney-General. The idea of this amendment is to place these particular victims of crime, who have been disadvantaged, in

a better position than they are presently and to acknowledge the fact that, by reason of an act of this parliament, they have been deprived of the opportunity to obtain justice in the ordinary way.

The Attorney-General is already endeavouring to make some political mileage out of the fact that when my party was last in government we did not introduce a measure such as the one which is now being introduced. It ought to be said that Labor never moved for it and that the 1985 amendment which preserved the anomaly was passed whilst the Bannon government was in power. However, leaving aside petty political squabbles, I think it is fair to say that it is only now—or in very recent times—that our community and members of parliament have come to fully appreciate the extent of sexual abuse in our community and come to a better understanding and appreciation of the long-lasting nature of the harm which is caused by such abuse.

The Hon. Andrew Evans raised this issue, and I am glad that members of my party are supporting this initiative as we supported the unanimous report of the joint committee. So, I indicate that we will support the second reading of this bill and its rapid passage through all stages and that, in the fullness of time, we will introduce an amendment to the Victims of Crime Act to ensure that there is compensation because, in our view, without compensation there can be no full justice.

The Hon. G.E. GAGO: I rise to support this bill for an act to amend the Criminal Law Consolidation Act 1935, which would have the effect of removing the current immunity from prosecution for certain sexual offences. This position is consistent with the recommendations of the joint select committee (which I chaired), which recently completed its inquiry and tabled its report. This inquiry was initiated by the Hon. Andrew Evans. Sexual crimes committed before 1 September 1982 in South Australia cannot currently be prosecuted as they are subject to a three-year statutory time bar which existed from 1952 to 1985. This time bar has, in effect, created a gap of 30 odd years or more during which sexual offenders could be guaranteed of getting away with their crime if they were able to keep it a secret for three years or more.

The committee was asked to examine whether this immunity should be removed. After consideration of many written submissions and a number of oral submissions the committee found that there was, in fact, insufficient reason (in policy and in principle) to maintain this immunity and therefore recommended that it be removed. I will have more to say about the details of the committee and its findings when the report is noted tomorrow. So, today I will just comment generally.

The committee determined that it was an anomaly and that, with hindsight, it was a mistake to introduce this time bar in 1952, that its abolition was long overdue, and that allowing it to exist in effect lacked sensitivity and recognition of the fact that sexual offences are usually hidden and that victims are often effectively silenced by threats and intimidation, often for many years and, for some, almost the whole of their lifetime. It can often take many years for a victim to take action. An advocacy agency for victims of sexual offences stated in its submission to the committee:

> Many victims of child sexual abuse who have accessed our services have detailed the way threats of murder of self, pets, mother, siblings or other loved ones are used to silence children. Other silencing tactics that victims recount include: threats of not being believed; being told it was their fault or that they wanted/enjoyed the abuse; being told their mother or others know that it is happening or happened and don't care or condone/d it.

It is also worth noting that no other state of Australia has legislated for a time limit on prosecutions for serious sexual offences. Therefore, by supporting this legislation we will, in effect, be bringing South Australia into line with other states.

The proposed legislative change will also bring sexual offences into line with other indictable or serious criminal offences. Many of the submissions which the committee received pointed out that no other indictable offence currently is (or has been) subject to a statutory time bar. One witness declared—I quote from the report:

> If I had been murdered 40 years ago, and the evidence was ignored, or not brought to light, would a statute of limitations apply? Then why is there one for sexual abuse? My physical body may not have been murdered, but my soul, spirit and emotions were.

The main argument for retaining immunity was outlined by the Criminal Law Committee of the Law Society, whose firm view was:

> . . . it is not right in principle or policy to retrospectively remove legislative immunity from prosecution.

It was pointed out to the committee by the DPP that part of our legal and democratic tradition is not to take away people's rights retrospectively. However, we may be of the view that a particular case ought to be dealt with differently from that which the law currently allows. That constitutes a principle of elemental justice which has been in place for 50 to 100 years.

So, apart from preserving the rights of an alleged sexual offender, the committee found that the other affects of continuing immunity included (and I paraphrase from the report):

- a fundamental injustice to victims of sexual offences pre December 1982 and benefited people who perpetrate sexual offences;
- a perception that the rights of perpetrators of sexual offences pre 1 December 1982 are more important than those of their victims;
- the perception that it was okay to sexually offend pre 1 December 1982; and
- it was also seen as discriminating against women and Aboriginal persons, given that both of these groups are more likely to be victims. This was of particular concern in relation to the stolen generation, as those children who were removed from their families were considered to be at much greater risk. I am ashamed to say that the practice of removing Aboriginal children from their families was carried out until the 1970s.

However, the committee also wished to emphasise that, if parliament legislates to remove this immunity, there continues to be many barriers for those victims who are seeking to obtain a conviction via trial, particularly related to evidence that can be about 20 years old.

Again, I will paraphrase from the report. The Director of Public Prosecutions has an obligation to commence prosecution only where there is a reasonable prospect of conviction, and to obtain a conviction. To obtain a conviction, an indictable offence must be proved beyond reasonable doubt. That is the current standard. When allegations are about 20 years old, it is extremely difficult to achieve this level of standard or this obligation. The sorts of barriers to prosecution were found to include:

- evidence being lost or destroyed or, in effect, never collected in the first instance;
- to prevent an unfair trial, courts have the power to order a permanent stay of proceedings;
- if a trial does go ahead in the absence of evidence to support the complaint, the judge is required to warn the jury that it is dangerous to convict on this evidence alone. For instance, that could apply in a case where there was no evidence other than one person's word against another.

It should also be noted that sexual offences are one of the most difficult crimes to be prosecuted, even when there has been little or no delay in lodging a complaint.

The committee found that 85 per cent of sexual offences reported to police are not prosecuted because there is no reasonable prospect of conviction. Of the approximately 15 per cent that are prosecuted, fewer than half result in a conviction. So, less than 7 per cent of sexual offences reported to police are finalised by a conviction being recorded. That is, indeed, a very alarming and concerning statistic. So members can see that there are many barriers which lie ahead for those who wish to pursue their complaint. It is likely that many allegations of sexual crimes released from immunity will probably not be prosecuted. However, the committee did wish to emphasise that this should not 'diminish the seriousness of the offence and the pain experienced by the victim'. Indeed, it should not prevent victims from accessing the processes of justice available to other victims of serious offences.

It was for these reasons that the committee included in its recommendation not only the abolition of the time limit but also the investigation of alternative methods of appropriately responding to allegations of sexual offences, looking at methods that empower victims and prevent reoffending without, of course, minimising the serious nature of the crime. I look forward to the outcome of that investigation. I am also pleased to note that a number of initiatives recently introduced by the government will also assist in deterring and preventing future sexual offences, particularly in relation to children. These include the introduction of a paedophile register that will contribute to a national list of names, a review of parole laws involving paedophiles which is currently being undertaken, and the government committing an additional $42.6 million into child protection in response to the Layton review, $12 million of which will be put into early intervention programs to support families at risk. The government has demonstrated its commitment to acting now in relation to child protection through the provision of prevention strategies and also the allocation of significant funding. Of course, we will continue the urgent reforms needed in the area of child protection. I commend the bill to the council.

The Hon. A.J. REDFORD: I support the bill. I also support the opposition's proposed position vis-a-vis compensation. It would appear to me that these victims on any analysis are entitled to the same compensation as anyone else would get had they found themselves in the position of being a victim of a crime. Because of the unique nature of the crime and unique circumstances in which these victims find themselves, I also support the view that there needs to be some special provisions that relate to these victims. In particular, I would endorse two special provisions. First, given the nature of the law as it stands and the time that has passed since the commission of the offences, they will be very hard to prove.

Under existing criminal injuries compensation legislation, the law requires proof beyond reasonable doubt. In terms of securing compensation for the victims of these crimes, it is my view—and I am pleased to see that my opposition colleagues are supporting me in this—that the standard of proof ought to be on the balance of probabilities. The second proviso is that there is a limitation period in relation to claims against the victims of crime fund. Obviously, for the victims who fall within the class who are affected by this bill, there would need to be a provision to enable them to make a claim within a reasonable period of time following the passage of this legislation.

I strongly support and endorse those amendments. Indeed, this will be a real test of the government's credentials on this issue. As we observe, the government is strong on passing laws and making statements but very loath to put its money where its mouth is. I will be very interested to hear the government's response to our amendments. Indeed, I make this challenge to the Attorney-General (because I know he is an avid reader of the Legislative Council *Hansard*): I will make it my business to listen to Bob Francis and get on his show and explain to his listeners that, if the government opposes our amendments, it is a mean government that will not look after victims.

I will make a number of other comments and I express some concern about this bill in the earnest hope that we are not raising false hopes. Proving offences that occurred many years ago—getting on to more than 20 years ago in some cases—is an exceedingly difficult task. To get the evidence together in such a way that it would convince a jury beyond reasonable doubt that the offences had occurred and that they had the right offender would pose an enormous challenge to our criminal justice system. I am concerned that the passage of this bill—and I have no doubt that the bill will be passed—will raise expectations on the part of these victims. I am sincerely worried that, if they fail to prove their charges, their expectations and hopes raised by the passage of this legislation will be dashed. I am not sure whether our society has the capacity to be able to deal with the uniquely difficult, unfortunate and tragic situation in which these victims find themselves.

I will explain why I have those reservations and perhaps explain some of the pressure points that might exist during the passage of a prosecution of a person that will inevitably occur upon the passage of the legislation. Firstly, I suspect that, to date, very little police investigation would have taken place in relation to these matters. There would need to be an investigation by the police of matters and events that occurred as recently as 18 years ago (and even longer). That would be a very difficult thing to do. The police would have an enormous challenge in relation to that and I wish them all the best. The second pressure point that would arise would be in relation to the Director of Public Prosecutions. The Director of Public Prosecutions would assess these cases once the evidence had been gathered and would have to make a determination on two issues. The first would be whether there were evidence at all that would found a charge under our criminal legislation.

The second test to which the Director of Public Prosecutions would have to apply his or her mind would be whether there were sufficient evidence to enable a jury (properly directed) to come to the conclusion that the charge had been proven beyond a reasonable doubt. Given the length of time that has elapsed, that would not be a very simple or easy issue. Indeed, I suspect that the Director of Public Prosecu-

tions may even come to a conclusion that, notwithstanding the accusations and some of the evidence, there would be grounds upon which he would not proceed to a prosecution. I would sincerely hope that we in this place and elsewhere would not seek to make political capital out of a genuine decision made by the director not to prosecute in these very difficult circumstances.

The next pressure point in our criminal justice system would arise probably at the time of the commencement of the trial, in that it would be likely that accused people would raise hurdles in relation to a potential prosecution, and the hurdle that they would be likely to raise would be that the prosecution would be an abuse of process. They might do it on the basis that, because so much time had elapsed between the alleged commission of the offence and bringing the matter to trial, they would be unable properly to prepare a defence. The courts have upheld the principle, quite consistently and quite rightly, that everyone is entitled to a fair trial when charged with a serious criminal offence, and if there were an inability on the part of an accused person to present a defence as a consequence of a lengthy passage of time, then a court might well uphold an abuse of process argument and stay the proceedings. Again there is the possibility that the victims in these sorts of cases may have their hopes dashed.

The fourth obvious hurdle is what a jury would be likely to do in weighing the evidence. One can only speculate, because we do not have any of the evidence before us now, but it would be extremely difficult for a jury assessing the evidence, particularly such old evidence, to come to a conclusion that a charge could be proven beyond a reasonable doubt. And so there would be great pressure on the jury. Then there might be an appeal process, and I have no doubt that the appeal processes would agitate very strongly the abuse of process issues and others. Finally, there is the question of the High Court. In the past, the High Court has had certain things to say about retrospective legislation in the criminal context. Now I am not sure that this legislation could be described as retrospective, but that point might be argued—and I have no doubt, as a former practising criminal lawyer, that I would attempt to argue it if my client were charged with these offences.

The Hon. Diana Laidlaw: And could afford to pay the fees.

The Hon. A.J. REDFORD: I always did Legal Aid—in response to that.

The Hon. Diana Laidlaw: It is good to have on the record, isn't it?

The Hon. A.J. REDFORD: I have not had a paying client for years! The pressure point would then be with the High Court and whether the legislation were retrospective and whether it were constitutional. The process that we would be permitting with the passage of this legislation would be complex, difficult and fraught with risk, and would place great pressure on our criminal justice system. That is not to say that we are not doing a good thing by the passage of this legislation. When one looks at the evil associated with the criminal conduct that we are talking about in relation to this legislation, and when we weigh up the two evils, then it is the position of the opposition—supported, I understand, by the government and certainly advanced by the Hon. Andrew Evans—that we are embarking upon the lesser of two evils.

In that respect, though, I would urge our community, and indeed everyone, to understand the important and difficult decisions that the Director of Public Prosecutions, the police, trial judges, juries and, ultimately, appeal courts and the High Court would have to make in managing these very complex and difficult issues.

I do have one question of the government—and I know it is not the government's bill and it is entirely up to the government whether or not it chooses to answer. I want to know whether or not the government has considered the constitutionality of this bill and whether there is any opinion to the effect that what we do today has some constitutional validity. I think we owe it to these victims to be absolutely frank and honest and not to unduly raise their expectations. In closing, can I say that, if we are to go beyond putting these people through an extraordinarily difficult process and if we are to make a real step towards ameliorating their problems and acknowledging that they have been the victims of quite gross and serious crimes, then the proposals concerning compensation ought to be adopted, and ought to be adopted quickly without debate. And so, with those few words, I support the bill.

The Hon. SANDRA KANCK: The Democrats enthusiastically supported this bill when it was introduced last year and we are delighted that the committee has recommended that this bill be reintroduced and proceeded with. The survivors of child sexual abuse who were abused during the time that this bill addresses have not only had to deal with their grief and sorrow about the abuse they experienced but they have also had to deal with their confusion and their anger about a legal system that has protected their abusers from prosecution. The passage of this bill will remove a distinction that applied to only one crime in the statute book and made the survivors of child sexual abuse feel as if they were second class citizens. Whether or not the survivors of child sexual abuse choose to seek prosecution of the perpetrators is immaterial in the end; what matters is that a crime is a crime is a crime, and the survivors will now be able to do something about it if they so choose.

The Hon. J.F. STEFANI: I did not want to involve myself in the debate, but I do indicate my support for the bill. In interceding in the debate I confirm and endorse the comments of the Hon. Angus Redford. I think we have an obligation to ensure that victims of serious sexual offences—especially children—have an opportunity to address their particular circumstances of the crime. However, at the federal level during the much publicised war crime trials, we have seen that the passage of time does make it very difficult to have cases proven. Even with the very best of intentions and lawyers and other modern technology that is at our disposal today, the trials started in Australia regarding important criminal actions during wartime failed.

I hope that the processes that we as a parliament are endorsing today to enable legislation and the recognition of crimes beyond the time limitation that constrain prosecutions in the first instance will not result, as the Hon. Angus Redford has alluded to, in difficulties and legalities that will aggrieve victims any more than they have already been aggrieved by the crimes that were committed against them. I support the bill.

The Hon. T.G. CAMERON: I rise to indicate my support for the bill and to offer my congratulations to Family First for achieving one of the election promises it made prior to the last election campaign. I want to briefly comment on the contribution of the Hon. Angus Redford. He does make some very valid points when he talks about some of the legal

problems associated with bringing some of these offenders to justice. However, I think that those difficulties have to be balanced against the crime that we are considering here. While there are more serious crimes against children than sexual crimes, such as murder, rape or terrorism, sexual crimes against children are something that I think goes to the core of our humanity. They often say that you can judge a civilisation by the way it treats its children and its animals and I think that, with the passage of this bill, we are sending a very clear message to all of the rock spiders out there in our community that our children are a no-go area. So they should be.

So, I am happy to support the legislation because, notwithstanding the comments made by the Hon. Angus Redford, every attempt should be made by this legislature to ensure that we have legislation which holds these horrible individuals to account. I notice that the Anglican Church is now going to conduct a further inquiry into sexual abuse within their church. But every day, when one picks up the paper, somebody else has come out and talked about the sexual abuse that they endured when they were a young child, whether it be with the Anglican Church, the Catholic Church or some other institution.

The Hon. Diana Laidlaw: Or a ward of the state.

The Hon. T.G. CAMERON: Or a ward of the state. Not being a member of either the Labor Party or the Liberal Party, I find it quite interesting that we have the Prime Minister stoutly refusing to conduct any kind of inquiry into child sex abuse in Australia. It would probably be the only political issue at the moment about which he is on all fours with Mike Rann, our state Premier, who is also refusing to conduct a judicial inquiry or a state royal commission. I suspect that the clock is now on a countdown to some kind of state or federal judicial inquiry or royal commission into child sex abuse in this country.

If one is to believe the reports in the media, the majority of this child sexual abuse appears to be directed against young boys. I am not suggesting for one moment that the crime is any less if it is perpetrated against young boys than if it is perpetrated against young girls. I am merely making the observation here that most of this child sex abuse, according to media reports—I do not have any statistics on it—seems to be predominantly directed against boys.

The Hon. Diana Laidlaw: In the institutions, not in the home.

The Hon. T.G. CAMERON: Yes. Just to make myself clear here, I am only talking about sex abuse in institutions. I am not talking about child sex abuse at home. I concur with the Hon. Andrew Evans' statement that if we are going to have an inquiry into child sex abuse via some parliamentary committee, such as a select committee or by referring it off, as I have also heard members discuss, to the Social Development Committee, then I agree with the comments that he made the other day. Research does indicate that 85 per cent of child sex abuse occurs in the family home with either members—

The Hon. Sandra Kanck: It is good that you are saying that because there is too much of this rubbish going around about paedophilia—

The Hon. T.G. CAMERON: I acknowledge the Hon. Sandra Kanck's interjection. I will not comment on it, but I will acknowledge it. The research that I have seen indicates that what the Hon. Andrew Evans is saying is correct, that the overwhelming majority of sex abuse does occur in the family home. While I believe there should be an inquiry of some kind, I think it should be run by the state government. I do not know that it should go through a select committee or the Social Development Committee, but I indicate that we need an inquiry. I will support an inquiry in this council, provided it is an inquiry into the issue of child sex abuse. Notwithstanding the dreadful history over the past 40 or 50 years—and we do not know; it could be 400 or 500 years—of child sexual abuse, one can understand why the churches were included in the Australian Democrats' resolution.

I would be more than happy to support that resolution, if the state government or federal government will not conduct an inquiry, but I believe it should be an inquiry into the entire issue of sex abuse. I hasten to add that, if we open it up, I suggest we will have to allocate special resources to the committee because one can imagine there will be dozens, if not hundreds, of people who are prepared to come forward to tell their full story, with the full anonymity that the Social Development Committee or a select committee could provide. These people are not chasing dollars, but they would like to see justice done and, hopefully, within their own mind, bring a very unsavoury story to an end.

I had a mate from my earlier school days who endured some sexual abuse within a church organisation—I will not mention the name of that organisation. He was a good Christian up until he endured that abuse. This abuse was about 40 years ago. Not from my own personal experience but from my experience with a few mates with whom I knocked around in the dark old days, it is something that goes on; it is considered to be a dark and dirty secret. He did not talk about it for years, but one night—and I confess he had had a few to drink—he broke down and sobbed as he told me about the sexual abuse he endured when he was 13 years of age. When one talks to these people, the first question that springs to mind—and it was my first question—is, 'Why didn't you say something? We would have fixed him up!'

We did not know what was going on. Back in those days, when we grew up in Port Adelaide, we had our own way of fixing up people like that. My reaction was, 'Why didn't you tell us?' It was shame. He was so ashamed. Members must remember that homophobia was much more rampant in those days than it is these days. He was just frightened, through shame, to tell his good friends and mates because he thought we might think he was homosexual and that he wanted these actions to happen. It was for that reason and the very special relationship he had with his dad, who considered his son 'one of the boys'. He said that they were his two reasons. He said, 'I could not bring myself ever to do anything about it.' I have not run into this chap for many years, but he sounds to me like one of these people who does not want to go to court and is not after money. He sounds very much like one of the people about whom I was reading today in the paper. He would like to bring the matter to a close. If that is the case, then supporting this legislation will help some people bring the matter to a close—people who have carried this horrible burden around with them for decades.

I urge members of the council to support what I believe should be a federal royal commission into child sexual abuse. There is no doubt about that. It has been rampant across the country for decades. I think it is unfair to point the finger at a state leader and say, 'You should do it and you should pay for it.' That will trigger off a number of state-led inquiries and, I suspect, at the end of the day, will never ever get to the bottom of what is a very dirty, deep and murky well of child sex abuse. I am pleased to support this legislation.

The Hon. NICK XENOPHON: I indicate my strong support for this legislation and I congratulate the Hon. Andrew Evans for introducing this bill, his persistent campaign on this issue and his continuing work in dealing with this issue. I also congratulate the select committee for the way in which it dealt with the issue and dealt with the evidence in order to come to a relatively speedy resolution in terms of the various matters. It does show that the committee system can and does work when there are certain imperatives. That is something that reflects well on the parliament as a whole.

This bill rights a wrong. It deals with an anomaly with respect to bringing prosecutions for pre-1982 offences. I will not add unnecessarily to what previous speakers have said, but this issue has been of particular focus to me in recent weeks. The Reverend Dr Owers and Reverend Andrew King from the Anglican church came to see me in relation to their concerns about child sexual abuse within the Adelaide diocese and their concern that the church's response to the allegations was not satisfactory. Having met with and spoken to victims of that abuse, some of which occurred well before 1982, it indicates that this issue is most serious and that the current law is clearly unsatisfactory and does not reflect community standards and concerns with respect to this issue.

In relation to the Anglican church, I note that the Anglican synod has agreed to a working party to set up terms of reference for an inquiry. I know that both Reverend Owers and Reverend King are pleased with the outcome. I believe a truly independent inquiry will be important in the process of healing for the victims and, indeed, for restoring the credibility of sections of the church that have come under question in terms of the way the church has dealt with a number of these issues. That is for an independent inquiry to determine.

I note that the Hon. Robert Lawson was criticised in the other place for having a different view on this issue. I think the important thing is that he has looked at the evidence, considered the issues and come on board in terms of this legislative reform. I think that is what parliamentary democracy is about. If there is evidence and imperatives to deal with an issue, then there is absolutely nothing wrong with members reconsidering their position. Obviously, the select committee process was part of that. I look forward to the speedy passage of this legislation in the hope that, as painful as it may be for victims of child sexual abuse pre-1982, if they come forward and it means paedophiles in the community are charged that otherwise would not have been charged, then that is clearly unambiguously a good thing for our community.

The Hon. R.K. SNEATH: I will be brief. I congratulate the Hon. Mr Evans for putting forward this bill and congratulate the committee on its work. I totally support the bill, because I think that for those who have had this terrible crime committed against them it will give them back some faith in the system and, hopefully, will result in the prosecution of these evil people. I also congratulate the two reverends who came forward a few weeks ago and voiced their concern, for their courage in going to the press and on radio. They should be strongly patted on the back for their efforts. Gentlemen such as them coming forward certainly helped to get this issue more widely publicised. I fully support the bill.

The Hon. A.L. EVANS: I thank members for their input. What this will do is bring healing to people who have for many years carried great pain and anguish. I have been very pleased with the contributions made by everyone. The committee was an excellent one and I thank the Hon. Gail Gago for her leadership. We trust that in the future this will be a help to many people.

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

[Sitting suspended from 5.59 to 8.18 p.m.]

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 2 June. Page 2519.)

The Hon. J.S.L. DAWKINS: I rise to support the second reading of the Supply Bill. This bill is a device for the government to ensure that public servants can continue to be paid and that public services can continue to be delivered from the period 1 July through until the Appropriation Bill is finally considered and processed by the parliament. The Supply Bill gives parliamentary authority to the government of the day to continue delivering services via public expenditure. The government is entitled to continue delivering those services in accordance with generally approved priorities, that is, the priorities of the past 12 months, until the time the Appropriation Bill is passed.

In speaking to this bill this evening I take the opportunity to highlight the delivery of public services in a particular sense, being the state government's contribution towards the Loxton irrigation area rehabilitation. The Loxton irrigation district was established by the commonwealth government in 1948 under the War Service Land Settlement scheme. From July 1997 the district was operated by the Central Irrigation Trust under contract. In July 2001 ownership was handed over to the Loxton Irrigation Trust. The new scheme was commenced in 1999, and all irrigators are now connected to the scheme. Irrigators have worked with the state and commonwealth governments to replace the old channel and low pressure pipe with a new, high pressure delivery system for the Loxton irrigation district.

This jointly funded initiative will improve the river environment by increasing water use efficiency, reducing salt loads into the River Murray, reducing scheme operating costs per hectare, improving productivity over the long term and bringing about sustainable economic development to the Loxton district. I will mention some facts in relation to the project. The original project area was 2 757 hectares, with the area of new development 1 080 hectares. The value of horticultural production from the area is $35 million and the number of irrigators 230.

The project has eliminated 4.8 gigalitres of water leakages from channels and overflows, and the overall project cost was $39 million. The completion of this rehabilitation project was recently marked by a dinner at Loxton which was attended by the Minister for Environment and Conservation, the Hon. John Hill, the federal Minister for Agriculture, Fisheries and Forestry, the Hon. Warren Truss, the Leader of the Opposition, Hon. Rob Kerin, the local member for Chaffey in another place and a range of others. I should also mention the federal member for Wakefield, the Hon. Neil Andrew.

On that occasion, the Chairman of the Loxton Irrigation Trust, Mr Bill Wilson, made some remarks about the project and, in his remarks, from which I will quote some extracts,

he highlighted very well the manner in which the state government agencies have worked with the community and the commonwealth government to make sure that this project came to fruition. Mr Wilson said:

Twenty years ago it became apparent that the infrastructure of the Loxton irrigation district was ageing and in need of replacement. Ten years ago there were growing concerns that the original system was not matching the needs of environmentally conscious irrigators, or the community at large. Open channels and their associated overflow areas not only wasted water, but contributed significantly to unacceptable saline flows of drainage water back to the river.

The Loxton Irrigation Advisory Board knew that the old channel system had to be replaced but convincing those who could financially support the replacement of the infrastructure was a different matter. We shuddered when the first sums were done and a figure well in excess of $40 million was suggested as the cost of rehabilitation.

Nevertheless, we pressed forward knowing that we had strong environmental and economic arguments supporting the replacement of the old system. It was obvious the Loxton growers alone were not in a position to pay the 20 per cent share of the cost of rehabilitation.

I interpose here that this was part of a proposal that it be funded 40 per cent by the commonwealth, 40 per cent by the state government and 20 per cent by the growers. Mr Wilson continued:

It was fortunate indeed that the principals of Century Orchards were looking for a suitable site to develop about 700 hectares of almond orchards and vineyards. Jeff Parish and Megan McFarlane—

who were then officers of the Riverland Development Corporation—

found such a site adjacent to the Loxton Irrigation Area. Century Orchards' decision to use this area proved to be the catalyst to persuade the federal government to support the provision of funding for a revitalised and enlarged Loxton irrigation area.

Rob Kerin, the then minister for agriculture, was keenly supporting Loxton's case as was our federal member, Neil Andrew. Neil organised, and Rob led, a delegation to Canberra where some very important seeds were sown, effectively alerting the then minister for agriculture, John Anderson, that Loxton's case warranted serious consideration. From start to finish the Loxton Rehabilitation Steering Committee (chaired first by Barry Windle and then Roger Wickes both of Primary Industries SA) has provided the drive and direction for the project. The fact that the project has been completed two years ahead of schedule and millions of dollars within budget speaks volumes for their collective skills, enthusiasm and professionalism. The same could be said of the team from SA Water ably led by Martyn Munn, Paul Dougherty, Alan Mattner and Peter Tsoukalis who supervised the construction of the scheme.

The Central Irrigation Trust (represented by Jeff Parish, Brian Martin, Reg Bristow and Rod Ralph) has been a tower of strength. CIT are our managers, but their interest has gone far beyond managing Loxton's delivery system. Their help for our fledgling board of management has been greatly appreciated. They led us towards ownership and self-management with a great deal of patience and understanding, based on their many years of experience in the irrigation industry. Duncan Tullett of Primary Industries SA is another of the locals who provided unswerving support. As the PIRSA man on the spot his help and guidance has been invaluable.

Likewise, Ron White of the Office of Agriculture, Forestry and Fisheries in Canberra, who provided that very important link with the federal government and did so in a way that was not only very supportive but which gave us a very clear idea of the government's expectations. Steve Heinicke and Malcolm Bonney deserve a special mention for they were channelmen for the old system but became involved, as CIT staff, in helping growers connect to the new system even though it signalled the end of the job they had enjoyed for many years.

Loxton's growers met to develop a plan of action to encompass their vision of a vibrant, grower-owned, self-managed, efficient irrigation district. We determined three major goals. First, we wanted to create a highly productive, competitive irrigation district. Secondly, we wished to support the needs of the growers in the district and also contribute to the growth and well-being of the Loxton district as a whole. Our third goal was to do all in our power to protect natural resources for future generations. We determined that certain things had to be achieved for these goals to be realised.

First and foremost we needed a rehabilitated irrigation system—a system which delivered water efficiently and at an affordable price enabling our growers to be competitive. We needed local ownership and the ability to manage our own affairs. We saw the need to provide for opportunities for redevelopment and expansion. We knew that we had to gain a wider understanding of efficient irrigation practices if we were to achieve better ecological and economic returns.

We've got our new irrigation system, actually a far better system than we set out to achieve. Little did we realise four years ago that we would be celebrating the completion of a system that boosts high-pressure to about 250 properties, each with its own highly accurate metering system and which is part of one of the most up-to-date water-on-order systems in Australia. The benefits to growers are many. On-block pumps have disappeared. Now that growers can order water as they need it, water use efficiency will improve resulting in lower costs of production and better quality produce. There has been a remarkable amount of new development and redevelopment. Actually, the goal of 1 080 hectares of new development, sought as part of the rehabilitation project, has already been achieved. There will be reduced operating costs.

We, the growers, the owners of the Loxton Irrigation Scheme, are not the only beneficiaries. The Loxton district benefits. The new developments are already providing employment opportunities and these should increase as the plantings mature. More jobs means more houses are needed; more children are in the schools; more money is spent in the shops. The environment benefits. The removal of the overflows has not only resulted in water savings of 4 800 megalitres but has reduced that amount of water finding its way into groundwater and thence back to the river accompanied with a good dose of salt.

The new water-on-order system will lead not only to water savings but also decreased drainage. Already we are seeing very pleasing signs that our new system is producing beneficial results for our riverine environment. Floating-flag test wells indicate diminishing perched water tables, while a recent run of the river, when salt levels were checked, showed a remarkable lowering of levels in the river near Loxton. All the signs are good. Meticulous planning, innovation, attention to detail and the enthusiasm to create something special has resulted in Loxton's irrigators having an irrigation district of which they can be very proud.

There is a group of guys who need a special vote of thanks. They are irrigators who have taken on a special responsibility in being members of the Loxton Irrigation District Board of Management. Thank you Lindsay Dowley, Laurie Davison, Gary Ward, Ken Jachmann and John Lory for a job well done.

Following on from that speech, I would like to say that the leadership of Bill Wilson as the Chair of the Loxton Irrigation Advisory Board (now the Loxton Irrigation Trust) has been exceptional. Mr Wilson has worked with a range of public servants in a variety of state government departments and agencies as well as with officers of the federal government and also of course, as I said earlier, with the Central Irrigation Trust and, importantly, the growers themselves.

I wanted to highlight this project tonight because I feel it is an excellent example of the delivery of public services by government agencies in cooperation with the commonwealth government and the local community. This project, which as I said earlier was funded 40 per cent by the commonwealth, 40 per cent by the state and 20 per cent by the community, has had an enormous effect on the Loxton community (as stated by Mr Wilson in his speech) as well as the Riverland and the Murray River Basin as a whole. In closing, I support this bill as it will facilitate the continuing delivery of public services such as those which are exemplified in the Loxton irrigation project.

The Hon. IAN GILFILLAN: Mr President, in speaking in support of the second reading of the Supply Bill I would like to apologise for not being here to take my turn in the speech list. As you know, many members (including your eminent self) shared with me in celebrating the 50th anniversary of the coronation of Her Majesty Queen Elizabeth II—

and a very worthy occasion it was. It kept me a little longer than I would otherwise have been, and I hope the council accepts my apology.

This bill supplies money for the Public Service of the state during the period in which the budget is under consideration. This process is likely to take some time as the Appropriation Bill passes through each house and the estimates committees. I would like to express at this stage the frustration that the Democrats feel at being excluded from the estimates process. I think I speak for all members of the crossbench at least and probably other members of the major parties in this place when I say that we feel it is of absolute importance to the good management of the state and the accountability of the government that members of the Legislative Council be involved in the estimates process. We hope that, amongst other things, the Constitutional Convention later this year will recommend changes to allow this.

In dealing with the bill before us we need to consider how well the money is being spent and how well the state is travelling. In so doing, we need to take a look at the budget which was presented in the other place last Thursday and which has been seriously studied by members of this place.

The Hon. T.G. Roberts: Was that written for a Democrat in the lower house?

The Hon. IAN GILFILLAN: It would make life a lot easier, minister, if we had not only one but several. The Treasurer has suggested that we have a choice between making necessary changes now or going on putting short-term fixes before long-term strategy. Nothing this government has done in its year in office has convinced me that it is interested in putting long-term strategy before short-term publicity. The Treasurer indicated in his budget speech that the windfall from this past year's budget—a $312 million surplus—will go to repaying debt. He also suggests:

> This is debt repayment through fiscal strength not fire sales.

While we were the first to condemn the former government for selling off assets to pay off debt at a net loss to the people of South Australia, the Treasurer is seriously mistaken if he thinks the 2002-03 surplus has anything to do with his skills in managing the economy.

We certainly make no mistake—and I hope honourable members share in this with me—that the first Labor government in nine years made a surplus only because of the State Bank. Of the 2002-03 $312 million surplus, $230 million is from distributions from the South Australian Asset Management Corporation—the leftover assets from the State Bank sale—and $94.3 million is from the South Australian Financing Authority. Neither is a sustainable source of government income, as has been expressed by the Auditor-General on numerous occasions, and to previous governments, might I say, to those who might be feeling a little uneasy on the government benches. It has not changed.

I note that the former Treasurer developed a practice of using this pot of cash—some $512 million—to balance budgets and then not actually using the money, allowing him to do the same trick in the following year. So, consecutive Liberal budgets were balanced with exactly the same money. If this money had not been sitting there when the new Labor government came into office, even with the tax windfall through the property boom, the Treasurer would have presided over budget results that failed to break even. These funds, of which there is still over $270 million sitting at the Treasurer's disposal, will be a key component of the projected surpluses in the years to come. In the 2004-05 year alone, this money is allocated to provide the estimated $77 million surplus and over $40 million of government spending. I point out that, should the Treasurer wish to, he could, with the stroke of a pen, increase the contributions from these two institutions and deliver a surplus in this year, 2003-04, instead of the $20 million deficit which is shown in the budget papers.

We are forced to ask why the government has chosen to have the small deficit this year. I would suggest that it has more to do with public relations than with fiscal responsibility. It would be much harder to sell the River Murray flat tax to the taxpayer if at the end of the day they had a surplus. It also distracts from the accumulation of funds being squirreled away for the next election. The Democrats are, nonetheless, pleased to see this State Bank money finally being put to productive use. However, because of the prominent role that these funds play in budgets from here until the next election, it brings into question any claims the Treasurer has of Labor's being a fiscally responsible government.

Further to this, I am very concerned to see that this government is sneaking down the privatisation path. After the previous government sold off the big ticket items in the utilities, this current government is turning its attention to selling off the cutlery. It tells us that it is saving $10 million by getting someone else to build and own the Mount Barker Police Station. This is described in glowing terms as a public/private partnership. However, we all know that there is no such thing as a free police station. This is just privatisation by stealth, and it does not save money. It merely allows this government to disguise debt by pushing it off the balance sheet. The debt does not go away. It is an enormous millstone around the necks of South Australian taxpayers for decades.

The April edition of the *New Internationalist* magazine describes the result of public/private partnerships as:

> A colossal shift of public wealth into private hands over the last 25 years.

The article highlighted the experience of the New South Wales government in the colossal waste of public funds that occurred when the Port Macquarie Base Hospital was funded under what is known as a P3 agreement. The people of New South Wales were saddled with paying $143.6 million over 20 years for a hospital that cost $50 million to build. This payment was made on top of the annual fees to run and maintain the hospital. At the end of 20 years, this hospital will still be owned by a private company. That is why public/private partnerships are called P3s—because the taxpayer has to pay three times over. We will be scrutinising the coming year's budget further and will be holding the government to account for its financial decisions over the remainder of its term. In spite of all this, the Democrats support the second reading of this bill and its passage through the remaining stages.

The Hon. D.W. RIDGWAY: I rise to support the bill which, as the Hon. Mr Gilfillan pointed out before, is for the Public Service while the budget is in consideration. I looked in the budget papers at the government's Economic Development Board's recommendations. I found it quite strange that an Economic Development Board's objective is to treble South Australia's overseas export income in the next 10 years from $9 billion to $25 billion. I am sure the public servants of this state will play a major role in that. There did not seem to be any correlation between the two documents. It just simply does not stack up. I am quite sure that very few, if

any, members opposite and members of the government have ever run a business and really know exactly what is involved. You must protect your key assets—and some of your assets are the staff in the Public Service—of the state that generate the wealth. Growth in this state will be impacted in a number of sectors.

Members interjecting:

The Hon. D.W. RIDGWAY: As my colleague the Hon. Caroline Schaefer said, you must manage the debt. Quite frankly, you had no credibility whatsoever in managing debt in your last term of government. I move on to education.

The Hon. A.J. Redford interjecting:

The Hon. D.W. RIDGWAY: As the Hon. Angus Redford said, they managed to blow it out to $10 billion. I will move on to the budget and some of the points that have been raised. With regard to education, in 2002-03 the government underspent the budget by $7 million. Surely some teachers and people out there really would have enjoyed the spending of another $7 million. The government claims that preschools are the winners in the budget. That is an insult to the parents and the teachers struggling with inadequate resources. I would like to draw the council's attention to class sizes in our education system. A number of schools have had funding to reduce junior primary school class sizes down to 18. However, at a number of country and regional schools, the junior primary levels class sizes are still at 26. It is a measure that has hardly benefited all the state.

We look for growth and incentives in rural and regional areas. This year I see in the budget that childcare centres, family day care and out of school hours care funds have all been cut. Surely in rural and regional areas one of the greatest sources of employees are young parents who can get out of school hours care and extra care for their children. However, again, these figures have been cut. Water is the next item, and I am quite concerned with the $20 million tax that has been introduced in this budget. You can tell—

An honourable member interjecting:

The Hon. D.W. RIDGWAY: The Hon. Bob Sneath interjects, 'It's not enough. It should have been more.'

An honourable member interjecting:

The Hon. D.W. RIDGWAY: One hundred million dollars a year! Goodness gracious! I refer to an article in the *Advertiser* of Saturday 31 May on the state budget which states:

> 'It's like a big poker game, what we've got is this big chip now that we can put on the table and say to other states, "You match it",' Mr Hill said. He said 'inevitably' some of the levy money would be spent on interstate projects.

So, South Australia is paying taxes that will not even be spent in South Australia. The article further states:

> Other critics of the River Murray levy claim it contains inequities and big water users should be charged more.
>
> Mr Hill said the levy was 'pragmatic'. 'It's a relatively small quantum of money,' he said.

On the one hand, he is saying it is a big chip and, on the other hand, he is saying it is a relatively small quantity of money. The article further states:

> 'To get a more sophisticated system which is fair you end up spending so much money to make it work you're not collecting very much.'

I am quite concerned about the budget and the $15 million expected to be collected this year from the tax and $20 million in subsequent years.

As I indicated earlier, members opposite have never been in business and do not have much understanding of farming, the rural economy or the weather patterns, because the $20 million is reliant upon getting the rainfall and run-off in the catchment area to ensure the normal flow to South Australia each year. There is no guarantee of that normal flow returning next season. Although I am sure we all wish that will happen, there is no guarantee. Dr Roger Stone from the Department of Primary Industries in Queensland said:

> While weather patterns over the next 12 months won't be as positive as originally hoped farmers should take heart with winter rainfall which is expected to be better than last year. This is according to the Director of Predictive Modelling with the Queensland Department of Primary Industries. . . He says it looks like being a wetter winter than last year, but not as positive for farmers as hoped, and it'll be a matter of keeping a very close eye on the Pacific. This is going to be a bit of a mixed year, I suspect, ahead of us and the Pacific Ocean is probably going to be doing all sorts of tricky things. So not a clear-cut El Nino, not a clear-cut La Nina, something in between.

It is quite obvious that the $20 million is certainly not guaranteed for the next four years.

I now move on to the issue of health. Again the public servants of this state have been duded. A great deal of money has been underspent in health, and I also notice that the government has only allocated $900 000 towards the next stages of the QEH redevelopment. Stages 2 and 3 will cost about $60 million and, with only $900 000 allocated in this year's budget, these works will not start for another year. Again the Public Service and the people of South Australia will be short-changed. Of course, we are well aware of the crisis in rural health and the many problems with the health service in Mount Gambier.

I now turn to mining, one of South Australia's great treasures, the great asset that this state has with its many natural resources. I notice a 3.5 per cent royalty slug being imposed on all the mining industries. It is rather interesting that today the government is prepared to impose this extra levy on the mining industry, when members consider that this state Labor government is led by a Premier who opposed the Roxby Downs mine and even wrote a paper for the Labor Party detailing how the mine could be campaigned against. I cannot believe that these people are willing to slug the mining industry 3.5 per cent. The petroleum and mining industries generate more than $2 billion into our economy, and most of it is from the northern region of this state. We have an office for the northern region with some three staff—a region that is crying out for more employment opportunities. Why would Labor government threaten this?

Another issue that is of concern to me is the levy on commercial fishermen. It is rather interesting that, in the last few days, I have had a number of representations from the Seafood Council, which is shocked at the decision the government has made, with no consultation with that council. At no time has the rock lobster industry been consulted. The last time the prawn industry had a discussion with the government about the issue was in 2000. The government has engaged in no further discussions and it has simply targeted the commercial fishing sector as a means of funding its infrastructure program. The irony is that many prawn fishers do not even use the state jetties for their commercial fishing activities but are expected to pay for their refurbishment.

This lack of consultation rings a horrible sound in my head. There was no consultation with the river fishers. There was no consultation in relation to the River Murray Bill and the protection area with the local government authorities within that protection area. The Lower Murray Irrigation Association had minimal consultation. There was no consul-

tation with Frickers from the Northern Tavern, the Seafood Council, the Rock Lobster Association and the prawn industry. It goes on and on; there has never been any consultation.

The PRESIDENT: And they are all public servants, are they?

The Hon. D.W. RIDGWAY: They are all public servants, yes. Then I move onto transport. There has been a cut of $10 million from the South-East rail project, from Wolseley to Bordertown. Once the money has gone, it is very difficult to get back.

Members interjecting:

The PRESIDENT: I am trying to provide some fatherly advice, that you ought to come back to the bill.

The Hon. D.W. RIDGWAY: Some $7.7 million has been cut from bus services. Imagine all the people working for those bus services who will now be out of a job. The Regional Roads Program has been increased by only $6 million. That is enough to build only six kilometres of road. So, as you can see, Mr President, I am not sure that the public servants of this state will be looked after in this budget, with the new Rann water tax, the registration slug, the training tax, the 40 per cent increase in mining royalties, ambulance fees up by 17 per cent, government charges up by 3.9 per cent and, of course, a levy on fishing vessels.

Then, of course, we look at some of the clever accounting that has taken place. The accrual surplus of $312 million reported by Labor in 2002-03 is the result of an 'accounting fiddle' as identified by Tony Harris, former New South Wales Auditor-General, in the *Financial Review*. After two to three years of impressive economic performance by the South Australian economy, Treasurer Foley is forecasting a major slowdown of the South Australian economy relative to the national economy under his policies. In closing, I refer to an article in the editorial of the *Financial Review*, which states:

> As Access Economics points out, this is essentially window-dressing inherited from the previous government. . . Growth in the operating expenditure in the coming fiscal year will be a solid 4 per cent. This will have to slow to less than 2 per cent if the government is to meet its objectives on present revenues.
>
> The government is proud of the savings it has made in spending to make way for its election promises and program priorities. The future offers the same grinding search for savings, but with greatly reduced rewards in the form of spending opportunities.

In closing, that leads me to believe that what we are likely to get in the future is increased taxes because, in the search for new savings, the only solution will be more taxes—because we cannot get any more savings. I support the bill.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

STATUTES AMENDMENT (WATER CONSERVATION PRACTICES) BILL

Adjourned debate on second reading.

(Continued from 2 June. Page 2527.)

The Hon. SANDRA KANCK: Given that South Australia will not get its annual River Murray entitlement flow in the forthcoming year, and the prospect therefore of water restrictions, this bill is both timely and necessary. It may be that before we get to water restrictions there will be record rainfall in the Darling Downs and the Australian Alps will have record snowfalls, and the spring melt will bring a deluge of water down the Murray. However, even if those things were to happen it would at best provide only temporary relief to the long-term pressures and demands on our water resources.

I went to the briefing that the Minister for the River Murray held on 15 May and heard some quite astounding figures, including the fact that for the whole of the Murray-Darling Basin the active storage at the present time is only 17 per cent of what that system can hold. The best is 41 per cent in Lake Victoria, and in the Menindee Lake scheme there is only 6 per cent. We were told that if we were to have average rainfall each year for the next five years it would take the Dartmouth Dam that long to fill.

An honourable member interjecting:

The Hon. SANDRA KANCK: Exactly—we are in deep trouble; it is the only way to describe it. When I spoke on the River Murray Bill last week I mentioned the water restrictions in Broken Hill and the anger of Broken Hill residents that we in Adelaide had no water restrictions. I also should mention that Eyre Peninsula had water restrictions at that time and the ACT also has had water restrictions in place.

The minister's second reading explanation to this bill observed that voluntary measures are not enough, so South Australia is introducing regulated controls. With the theoretical knowledge that we all have about the aridity of our state and the paucity of water, one would think that people would act responsibly, but instead we see median strips being watered to keep them green to European standards and we see pop-up sprinklers watering gardens in the middle of rainstorms. I wash my car about once every two months and I am fairly conserving of the water that I use.

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: Thank you very much, Mr Cameron. I made that decision quite a number of years ago—

An honourable member interjecting:

The Hon. SANDRA KANCK: Yes, and by the way my garden has a kikuyu lawn and it dies off every summer—we do not water it. That is something most of us could do. As I say, with my car, I balance the issue of the acid that might be there that could be dissolving the paintwork and so on against the use of the water and washing it, and I have decided that two months will suffice to keep the car going and for it not to start turning into a rust bucket. I did note a letter in the paper last week from someone who said that the only way that you can clean the inside of the wheel arches of a car is by using a hose with high-pressure water, but as far as I can tell that is mostly an issue that does not affect people in the metropolitan area, although obviously it would affect people in country areas driving on muddy roads. Again, you have to balance the issue of not using the water versus the deterioration of the car.

This bill will bring water users who are not SA Water customers into its ambit. At the briefing that I had yesterday on this bill I raised a few questions about this because it seems to me that where rural landholders have installed tanks at their own cost, or they have constructed dams at their own cost, provided that they are not collecting water from their property that would be run off onto other people's property and is therefore part of the commonwealth of all of us, I cannot see that we should be intruding into what they are doing. I certainly assert on behalf of the Democrats that the government does not have a moral right to apply this provision to such people.

An honourable member interjecting:

The Hon. SANDRA KANCK: The provision to bring into the ambit of this bill control of any water usage by anyone; so if you are a land-holder and you are not connected by pipe to SA Water resources, this bill will still net you. If you are self-sufficient and you have got a rainwater tank on your property, and you collect all the rainwater off the roof, this bill will allow the government to tell you what you can do with the rainwater that you have collected from your roof. I do not believe it is appropriate for the government to be doing that.

The Hon. T.G. Cameron: Where does it say that in the bill? That is outrageous.

The Hon. SANDRA KANCK: I cannot tell you the exact clause, I read it on the weekend, but it is there. It actually explains that part of what this bill does is to get people who are not connected to the SA Water system included in all this. I do not know if the government will do that but I am stating very strongly that I do not believe that it has the right to do it. In relation to water resources that are supplied from areas other than the River Murray, there are a couple that are, I think, of interest. I mention Eyre Peninsula which has its own water problems. They have very limited water resources. They are a discrete region, they are very dependent on the annual rainfall, their local reservoir—I think it is the Todd Reservoir—is silting up dramatically and they are becoming more and more dependent on ground water resources.

There was a very interesting article in the *Port Lincoln Times* of 18 May. One of the local residents, a farmer, who is a conservationist in his own right, is calling for a review of the formula by which farmers in the hills north of Port Lincoln are allowed to harvest their water. The article says that this man, John Hyde, said that he believed, as folllows:

> . . .landowners in the upper catchment around Greenpatch including himself are allowed to harvest way too much of the rainwater that falls on their properties, not leaving enough to recharge natural wetlands and the underground basins the entire region depends on. A specific formula currently in place states 10 per cent of rainfall is calculated as runoff and of that amount landowners are allowed to collect and keep for themselves 50 per cent.
>
> Eyre Peninsular Catchment Water Management Board manager, Geoff Rayson confirmed Mr Hyde's allegations this formula was originally designed for the Adelaide Hills also saying it would be good to devise a new formula specifically suited to the Eyre Peninsula's upper catchment.

So I assume that in the process of working out how we are going to allocate water this would be the sort of thing that the government would be looking at. It is very interesting to observe that this formula, which apparently is not working well for people in the lower catchment on Eyre Peninsula, is derived from an Adelaide Hills formula, because the Adelaide Hills formula clearly is not working either. The Mount Lofty Ranges is another of the regions that we need to look at very carefully here. There are seven major reservoirs in the Mount Lofty Ranges and in drought years, depending on how much rain has fallen on the Mount Lofty Ranges, those reservoirs can contribute up to 60 per cent of Adelaide's water supply in any one year.

The Hon. T.G. Cameron: Say that again.

The Hon. SANDRA KANCK: Up to 60 per cent of Adelaide's water. I am saying Adelaide's water, not South Australia's water. If there has been a good rainfall in the Mount Lofty region and there is drought in the rest of the state, those reservoirs supply up to 60 per cent of Adelaide's water.

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: I could not actually tell you. Those figures come from a document produced by the EPA in 1999, *The State of Health of the Mount Lofty Ranges Catchments*. That area has increasing population problems, and there has been very much unimpeded development in some parts of the Mount Lofty Ranges. We are seeing very rapid population growth. That same EPA paper, to which I referred a short time ago, stated that, in 1999, 88 000 people were living in the Mount Lofty Ranges and I suggest that, certainly with the development that is occurring around Mount Barker, Littlehampton, Nairne and so on, it would be well over 90 000 people now and growing at a rate of knots. Pressures result from that increased population from the septic systems that are going in, and there does need to be very serious effort by the government to put in proper sewerage systems if we are not going to do great damage to that very precious water supply.

Another of the non-River Murray sources to which we have recourse in South Australia is the Great Artesian Basin. The bill refers to ground water. It is not clear whether the Great Artesian Basin will be included in this, and I would be interested in some feedback as to whether it is the intention of the government to include the Great Artesian Basin. If it is included, does the government intend to place restrictions on the use of water from that source? Secondly, will it be willing to do so? Obviously, this would have an impact on WMC and its enormous use of water from the Great Artesian Basin. We are talking 30 megalitres, even 40 megalitres, a day, potentially. If we are serious about our water resources, we cannot simply say, 'It's mining. Therefore, we will make an excuse for that.'

In the minister's second reading explanation, we were told that the government would be adopting a community education and information strategy. I encourage the government to work closely with the department of education. I was a teacher for a short time and I am very much aware of the power of teachers with their children. I taught for only three years, but I can remember parents saying to me, 'I am so sick of my children coming home and saying "Mrs Kanck said this" and "Mrs Kanck said that".' There is no doubt that children at school listen very much to their teachers. They have the power to go home and educate their parents.

Since the government announced the possibility of water restrictions I have been contacted by a person who lives in the Mount Lofty Ranges and who was very concerned that we need a certain level of moisture content in vegetation to keep fire at bay in bushfire prone areas in the Mount Lofty Ranges. I raised this at my briefing on the bill and was told that the government would take it into account, but I am interested to know how the government will be accommodating such a need within the parameters of this legislation.

The Democrats certainly agree with the minister's second reading explanation and the fact that we need to reduce our dependence on the River Murray. That will require some thinking outside the square. South Australia needs to become the water smart state. Within the agricultural sector we have led the world in some of our thinking on dryland irrigation techniques, which in the past was an export industry to some middle eastern countries. But there are other issues we need to address, including grey water. Grey water is the water that is simply put down the sink from showering, bathing, washing our clothes, doing the dishes, and so on. At present that is not allowed to be reused.

If the government was to look seriously at this issue, I suggest that it needs to make some provisions in relation to

reusing that water. Through the means of some very soft technology, about 80 per cent of the time when I am doing my washing I use no detergent at all, so the water that goes down the drain is very clean. I see no reason for not allowing that sort of water to be hooked up, if for nothing else, to our toilet systems so that when we flush the toilet we are not flushing top quality water out into the sewerage system.

I said that we needed to think outside the square. I would like to advocate something that I have never heard being used anywhere else. I looked at the 1999 EPA document to see whether anything such as this was entertained at the time, but there was not. About 12 years ago when I worked for the Conservation Council, Margaret Bolster, who might have been Vice President of the Conservation Council at the time—she was certainly on the executive of the Conservation Council and President of the Mount Lofty Ranges Conservation Association—began to advocate an idea which she had developed and which she called water farming. It is something that we must seriously consider if we are going to look at how we care for the watersheds on which we are so dependent.

Margaret's concept was that, where water run-off goes into reservoirs for human consumption, land-holders would be paid for keeping their land clean. There would be a system of points that would determine how much the land-holder would be paid. They got maximum points, for instance, if they did not grow or graze anything; therefore, they did not put weedicides, pesticides or fertilisers onto the land. If they did not have animals grazing on the land, thereby reducing faecal contamination, they might get the full dollar for the clean water they put into the reservoirs of the Adelaide Hills.

The Hon. T.G. Roberts interjecting:

The Hon. SANDRA KANCK: Subdivisions would be one of the major problems, because as soon as we have subdivisions we create greater run-off from roofs and consequent erosion and soil turbidity. The population in general in those areas is a major issue. I had an email conversation with Professor Peter Schwerdtfeger from Flinders University about this idea. It is not entirely a new idea because he tells me that he did 'back of the envelope' calculations in 1972. That is more than 30 years ago, so we have to take into account the cost of living, and so on, but he writes:

> I clearly demonstrated that in the high rainfall zone of the MLR [Mount Lofty Ranges], each hectare of land, if kept in good environmental condition, was worth over $1 000 per annum because of the value of the quality water yielded. There comes a point where the level of degradation of the surface vegetation and attendant land use results in the run-off water becoming a liability rather than an asset.

He then makes a political point, as follows:

> Unfortunately, the disbandment of the E&WS department and the sale of some of its important functions to private enterprise has allowed a perception in some circles that dealing with water quality is no longer a state problem and that the technological magic of filtering will fix everything.

Of course, we know that is not the case and we know that, in the chemicals that SA Water or United Water have to throw into our reservoirs, we have the creation of trihalomethanes, which are carcinogens, which are created in our water system in the process of cleaning it up. So, although Peter Schwerdtfeger made that political point, I hope that in relation to this bill the government is saying that it will be bringing so much of it back in under its control. We seriously must look at areas such as the Mount Lofty Ranges and the importance of the water resource that is there for all of us.

The issue of water farming is a very creative one and one that the minister should investigate, because we are between a rock and a hard place in South Australia at the moment. Although the bill itself does not say so, I assume that, because we are amending the Water Resources Act and the Waterworks Act, the regulation-making powers in those two parent acts will be used to sort out the fine detail of the application of water restrictions. I urge the minister to fully and openly consult with all those who are potentially impacted by the prospective water restrictions. Of course, that does mean all of us, because we are all dependent on water, whether it comes from the Murray, from the Mount Lofty Ranges, from the Great Artesian Basin or from ground water in the Eyre Peninsula. We are all going to be deeply affected by this.

It is sad that, for some in our society, it will take drastic measures such as this to make them recognise just how precious a resource our water is. Our environment and our economy are totally dependent on the wise use of a resource we have used so profligately in the past. The Democrats believe that this bill is justified. It is a wake-up call to us all, and we indicate our strong support for it.

The Hon. J.S.L. DAWKINS: I support this bill. In doing so, I endorse the comments made by my colleagues the Hon. Caroline Schaefer and the Hon. Angus Redford. Tonight I would like to take a few minutes to speak about the impact on Riverland irrigators, in particular—because of the work that I do in the Riverland—and irrigators around South Australia, as a result of the announcement of the 20 per cent restrictions and the way in which that was done before any consultation was commenced. If I can just step back a little bit in time, at the end of February this year I spent a couple of days in the Riverland with the Leader of the Opposition in another place (Hon. Rob Kerin), and we spent quite a bit of time talking to people involved in the irrigation industries in the Riverland, whether they be individual irrigators or from various groups that represent those industries.

A month or so later I was part of a larger group under the banner of the Rural and Regional Council of the Liberal Party, which included a number of members of parliament, state and federal, as well as lay party members and, for some of that trip, the Hon. Rob Kerin again. On both those occasions we came into contact with an expectation from most producers and irrigators that some cuts would need to be made, whether it be in the short or the long term, for the health of the river. There was considerable discussion about how that could come into force. However, I must say that I also felt that there was an expectation that consultation would take place before any decisions were made. Unfortunately, that expectation did not come to fruition, and there is some disappointment with that.

Having said that, I know that the irrigators and the organisations that represent them are keen to work hard to make sure that the industry manages the need for restrictions in the best way possible. In terms of the mood in the region prior to the announcement of the restrictions and following it, I would like to quote some press editorials and comments from industry leaders. On 21 May the *Murray Pioneer* ran an editorial headed 'Consultation needed'. This was written prior to the actual announcement and stated:

> Introducing water restrictions will cause a myriad of problems in the Riverland, but a cooperative approach by the government should help minimise difficulties. It has been demonstrated through the government's handling of the Crown lease issue that nothing is ever as simple as it appears on the surface and change should not be

implemented without first being conversant with all the ramifications of one's actions.

Cutting water entitlements to irrigators will place enormous pressure on those organisations responsible for supply, not to mention some irrigators. Should employees of Central Irrigation Trust, for example, be responsible for enforcing water restrictions? What authority will they have to enforce those restrictions? Will they be adequately trained to complete such a task?

Policing water use looms as a massive undertaking and it remains unclear how and who has the resources to embrace such an onerous role. While the bulk of irrigators will observe the restrictions, there is a minority who will flaunt them. More CIT irrigators took unordered water this summer than ever before. If we experience another dry year, that trend is likely to broaden. Implementing restrictions that achieve the long-term goals and provide equity for all users can't be achieved without adequate consultation and an assessment of need across the various industries.

One would hope such strategies are put in place as quickly as possible to protect all parties in times of drought.

On the same day in the *Loxton News* there was an editorial headed 'Irony in irrigation scheme opening.' I will not read the whole of this editorial, but the extract commences:

There's a certain irony in the timing of this weekend's presentation dinner to mark the completion of the Loxton irrigation area rehabilitation scheme. Everyone associated with getting the scheme both off the ground and constructed (under budget and ahead of schedule) deserve congratulations, and the right to a good night out. The scheme is certainly impressive and has already started to benefit the Loxton community, with growers able to confidently plan expansions.

However, the benefits of the high pressure system could count for little if water restrictions are imposed on South Australia, as is expected. Growers will simply have less water for their crops—grapes, citrus or otherwise. So, despite all Loxton irrigators being officially switched over to the new system, their watering problems are far from over. In fact, just how they manage the restrictions—and their lesser share of water—could be the single most crucial decision they make in terms of their livelihood. It's no wonder all and sundry are calling for the state government to release restriction details as soon as possible.

Growers will need plenty of time to plan their strategy, and to learn as much as they can about the nature of the restrictions, and how to minimise the impact on their crops. Unless mother nature steps in, there appear to be difficult times ahead for river irrigators.

Two days later in the *Murray Pioneer* there was a frontpage article that covered the fact that announcements about water restrictions had been made. Part of that front page article was a quote from Mr Mark Chown, the Citrus Growers of South Australia Chairman, who stated:

Clearly the concern is how the restrictions will be dealt out. Those who are already on the edge of achieving maximum irrigation efficiency will be severely impacted if the restriction is on past water usage. Some irrigators are down to using just half their entitlement. A 20 per cent reduction for them could be cutting water off completely. There are issues regarding the equity of a 20 per cent restriction in South Australia compared to other states. I guess as growers we're panicking, there's a lot of angst.

To continue, on that same day, 23 May, in an editorial with the same heading it had two days earlier, 'Consultation needed', the *Murray Pioneer* stated:

As quickly as those with undisputed knowledge on water usage were calling for greater consultation, the state government jumped in and announced it would introduce water restrictions from July 1. It cannot be described as a knee-jerk reaction as the River Murray minister John Hill told this newspaper earlier this year that restrictions were almost introduced in the summer just gone. He said they decided to hold off on restrictions until absolutely necessary to ensure greater appreciation of the gravity of the situation.

No-one will dispute the need for water restrictions, but many need to have a say in how they are implemented. Experts like irrigation trust CEOs Jeff Parish and David Morris have an intimate knowledge of this region's water needs. One would hope that calls for an informed implementation regime, instead of one made without consultation from those 'in-the-know' are heard and duly acknowledged immediately.

I would also like to read a letter to the *Murray Pioneer* of the same date from Mr Des Green, who is the President of the Barmera Agricultural Bureau. I know that on behalf of the combined agricultural bureaus of the Riverland Mr Green has been trying valiantly to get the River Murray minister, Hon. John Hill, to visit their group in the Riverland, without success to this point, I believe. In a letter entitled 'Message to minister' he writes:

On May 20, 2003 the state's River Murray minister announced there would be a 20 per cent reduction on all water users reliant on water from the Murray to commence July 1 2003. Many efficient irrigators in the Riverland have installed soil moisture monitoring equipment and new irrigation systems to enable them to irrigate very efficiently, thereby minimising water use as much as is possible.

In most cases growers are using less water and the crops thus managed use only the water needed by the plant. A fair and equitable decision is essential taking into account the water use of 'efficient growers' and those are not as efficient. A reduction in water use 'across the board' could particularly disadvantage irrigators who have made considerable capital inputs to keep their water use to a minimum. However, if the option to utilise water savings held by the grower could be used to offset the proposed 20 per cent cut, your proposal may well be acceptable to our members.

I ask the minister to not unfairly penalise the growers who have made a genuine input and effort to be efficient irrigators as these people have already pruned their water use 'to the bone' and any cut in their water use will cause extreme hardship and significant loss of income. By way of contrast, the irrigator who uses much more water would hardly be penalised at all by an even out. I trust the above will assist the minister in making a decision as to how the reduction of water is to be administered in a fair and equitable manner.

I also noted a quote from the Chairman of the Central Irrigation Trust, Mr Ian Kroehn of Waikerie, in the coverage of the expected water restrictions in the *River News* of 21 May. Mr Kroehn was quoted in the article as follows:

The chairman also feels that the 20 per cent water restrictions in the city, is incomparable to that of the country. Suggestions that city restrictions may mean people will have to water their gardens at cooler times of the day and wash their cars using only buckets of water, is ludicrous to an irrigator who may lose 20 per cent of his total income.

'I don't care about washing my car, but I do care that I may lose 20 per cent of my income. This won't happen to anyone living in the city,' he said.

Mr Kroehn warns that if the restrictions are not carried out appropriately it could set the Riverland back 20 years.

I am pleased that, since the announcement of restrictions, groups such as the Riverland Horticultural Council and their various commodity groups, the Central Irrigation Trust, the South Australian Murray Irrigators, the Riverland agricultural bureaus and others have worked together to put forward their joint views on how best to manage the restrictions. Certainly, the collective abilities and expertise of many of the irrigators and the managers of those organisations are putting their best efforts towards getting the best results for not only the irrigators but also the regions in which they exist.

I have used these quotes this evening because I think they very adequately cover a lot of the issues which the irrigators in South Australia, particularly those in the Riverland, see as very relevant and important to them and which they also think important that other members of the South Australian community as well as people in other parts of the Murray-Darling Basin understand. I have used them because I think they cover a lot of the issues in relation to not penalising people who have already gone out of their way to be efficient and to put water out of their entitlements back into the river.

In concluding this contribution, I would remind the council that, as I mentioned in my speech on the River Murray Bill, the Murray and Mallee Local Government

Association has in recent weeks called for a water audit in South Australia. I support that call. I am not sure whether they have received a response as yet, but I hope they do. I will read another cutting from the *River News* of 14 May which summarises what the Murray and Mallee Local Government Association is seeking, as follows:

> The Murray and Mallee Local Government Association has called on the state Minister for the River Murray to conduct a water audit. The move was made at the association's last meeting and calls for minister John Hill to conduct a water audit in the Murray-Darling Basin in South Australia to ascertain where the loss of at least 650-700 gigalitres of water is occurring in an entitlement flow year. The association claims that the river pool level in SA has dropped by an estimated 500 gigalitres or an estimated 25 per cent of capacity. With the news that all water users in SA could face possible water restrictions next year, the call is necessary.

In summary, I support this bill. Because of the results of climatic conditions in recent times in the Murray-Darling Basin I think there is certainly a need for us to tighten our belt. I hope and trust that the minister and his department make use of the collective expertise of the groups I have mentioned in determining how that belt is to be tightened because, if it is done in a uniform way without any thought given to particular industries or commodities and the efforts of people who have already gone to great lengths to be efficient, there will be great problems as a result of these restrictions. I support the bill.

The Hon. T.G. CAMERON: I rise to make a brief contribution in order to facilitate the passage of this bill through the council. I support the second reading of the bill. This bill is more about setting up a regime for water to be controlled by regulation. I note that it provides for the establishment of a regime, largely by regulation. It has been my observation since I have been in this council that normally the Democrats would oppose a bill which allowed any government (Labor or Liberal) to govern so much through a regulatory process. However, I note that the Australian Democrats support this bill. One can only conclude—

The Hon. Sandra Kanck interjecting:

The Hon. T.G. CAMERON: No, I wasn't about to say that at all. I am not giving the Democrats a backhanded compliment, but I think it is only fair to say that, since Don Chipp founded the Australian Democrats more than 20 years ago, probably of all the political parties, it has acted as our, if you like, environmental conscience. I think that in combination with the parlous state of our water resources in South Australia it has prompted the Australian Democrats to support a bill which contains so many matters which will be governed by regulation. I am not saying that, over the years, the Australian Democrats have been reluctant to bring legislation to this council to strike out enacted resolutions.

Whilst I wholeheartedly support the second reading of this bill and will, as I have indicated, continue to support the government in expediting legislation through this house of review, I do have a couple of queries. My ears pricked up when the Hon. Sandra Kanck said that this bill, through regulation, could give the government the power to determine how we might use our own rainwater. So, the question I direct to minister Hill is: will he assure the council that the government will not walk down the path of regulating to control what people do with their own rainwater? I am referring to rainwater that has been collected by water falling onto someone's roof.

Throughout the bill there are different penalties applying. I ask the government why there is an expiation fee set at $315 in part 2 when another section of the act has penalties of $10 000, $5 000 or an expiation fee of $315 and in part 3 there is another penalty regime of $10 000 and $5 000 or the power to fix an expiation fee not exceeding $315 for an alleged contravention. It seems to me that in respect of some of the issues that are to be covered by this bill an expiation fee of $315 would not be a sufficient deterrent to stop people from illegally using water or contravening a regulation that has been moved by the government.

For example, if you are drawing water from a dam or a well and using it for irrigation purposes, I do not think that an expiation fee of $315 would in any way dissuade you from engaging in that illegal practice. Again, I query this. This bill provides that the regulations 'may', whereas in another section a maximum penalty is referred to, and in yet another section different maximum penalties are set out. So, I ask the government to address those questions, particularly as I note that minister Roberts in his second reading explanation states:

> The introduction of regulated use controls, provided by the bill, will have a positive impact on the environment by ensuring that water use is underpinned by conservation practices, and wasteful and inefficient water use is discouraged.

I suggest to minister Roberts that an expiation fee of $315 and other expiation fees which may not exceed $315 seem to be a little bit light on if the government is serious. This is not like an expiation fee if you are caught speeding. Somebody could have misused megalitres. For example, a small dam on a property can contain anywhere between one and five megalitres, or even more.

The ACTING CHAIRMAN (Hon. R.K. Sneath): You can only wish. I have been trying to get a dam built for a while.

The Hon. T.G. CAMERON: I wish you every success. However, the trick is to buy a property that already has dams on it. As I understand it, some of these dams can contain 20 or 30 megalitres. I am aware of properties that have up to a dozen dams on them. During times of water restriction or when the minister deems that we should be conserving water—and you do not have to nod as I say this, Mr Acting President—an expiation fee of $315 if you are caught grossly misusing your water, when you may have used thousands of dollars worth of it (even though you consider it to be your own water; the world is changing a bit) is, as a penalty, a little light on. I ask the minister in a further contribution to avoid my having to answer the questions otherwise the Hon. Terry Roberts will tell me off for not asking the questions during my second reading contribution. Be that as it may, it is my intention to support this bill.

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

RIVER MURRAY BILL

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. CAROLINE SCHAEFER: Clause 4(1) provides:

> The Governor may, by regulation, designate areas as River Murray Protection Areas for the purpose of this or any other Act.

What consultation would take place with those people who are affected by such regulation, or other departments, or with the public before such designations took place?

The Hon. T.G. ROBERTS: Consultation has taken place within government and local councils for the formation of the policy development. There is a commitment for that consultation process to continue. So it will be within local government, state government or within departments.

The Hon. CAROLINE SCHAEFER: I am really not satisfied with that explanation. I understand that consultation has taken place. However, my understanding of this clause is that it gives the Governor—and in this case, of course, the government of the day—the right to designate an area as part of the River Murray protection area. There appears to be nothing within this bill that allows the people of the state any consultation with regard to new areas (and this does not include the areas we have seen on the draft plan—and I stress that it was a draft plan—that are about to be designated) some future government might designate under this legislation. Under this bill, what consultation will take place?

The Hon. T.G. ROBERTS: Under part 3—'Administration,' clause 9(2) provides:

> The minister—
> (a) must consult with prescribed persons, bodies or authorities when acting in prescribed circumstances;
> (b) should, when consulting with indigenous peoples under subsection (1)(d), give special consideration to their particular needs; and
> (c) should, in consulting with other people, give consideration to any special needs that they may have in the circumstances.

As I have stated, the Murray and Mallee LGA, plus other relevant bodies, have been consulted in detail on the proposed River Murray protection areas. There will be continuing consultation with those councils. They will be prescribed bodies for the purpose of that clause.

The Hon. CAROLINE SCHAEFER: I take comfort from the minister's words.

Clause passed.

Clause 5 passed.

Clause 6.

The Hon. CAROLINE SCHAEFER: Clause (6)1(c) provides:

> to provide mechanisms so that development and activities that are unacceptable in view of their adverse effects on the River Murray are prevented from proceeding, regulated or brought to an end.

Who decides what is unacceptable and who decides what will have adverse effects on the River Murray?

The Hon. T.G. ROBERTS: The minister decides in the context of the objects of the legislation. There are protections within the legislation for that to occur and appeal mechanisms can be brought into play. The courts would then determine whether or not the minister's interpretation was appropriate.

The Hon. CAROLINE SCHAEFER: So that I understand what the minister is saying to be correct, the Minister for the River Murray decides what is or is not an acceptable development, and under this bill he has the right to prevent regulated proceedings being brought to an end. My assessment of this is that we now have a fox minding the chickens.

The Hon. T.G. ROBERTS: The minister has to take into account certain imperatives when making his decision in relation to environmental, economic and social perspectives. He has to give special acknowledgment to the need to ensure that the use and management of the River Murray sustains the physical, economic and social well-being of the people of this state and the facilities and economic development of this state. They are the imperatives of which the minister has to be aware and, if the decision he makes is outside those objects of the act, appeal mechanisms can be brought into play.

The Hon. CAROLINE SCHAEFER: Clause 6(d) provides:

> to promote the principles of ecologically sustainable development in relation to the use and management of the River Murray.

I query why the term 'economically sustainable' is not also included, because, as I said in my second reading contribution—and I sincerely hold to this view—economically sustainable and ecologically sustainable are not mutually exclusive. In fact, my view is that, one will not survive without the other. Unless people are prepared to live in an area, to make a profit and to work there in the long-term, my view is that the ecological sustainability will continue to be questionable. One of my concerns with this entire bill is that any reference to economic sustainability seems to have been put in as a postscript, a last minute clause, as a result of an amendment in another place being added to the objects of the legislation but added only in the one place.

The Hon. T.G. ROBERTS: The bill demonstrates composite intentions and cooperation. There has been much cooperation in the drawing up of this bill. In part, clause 6(1) provides:

> . . . of the people of the state and facilitates the economic development of the state.

As the honourable member has mentioned, it includes 'economic development'. The objects have been generally well supported. They were amended in the House of Assembly by Ms Kotz to emphasise the need to ensure that river management facilitates state development. Mrs Maywald also amended them to include a provision aiming to respect the interests and views of other people within the community in order to balance a perceived focus on respecting indigenous interests.

It is a composite structured object. The objects of the legislation are broadly supported in a tri-partisan way. I think the comments that the honourable member makes are accurate and I think the minister has gone out of his way to include both economic and ecologically sustainable development. Clause 6(2) provides:

> For the purposes of the section, the following are declared to be the principles of ecologically sustainable development.

In part, clause 6(2)(a) provides:

> . . . for their economic, social and physical well-being and for their health and safety.

I think everyone has the same interests at heart; that is, to get the ecologically sustainable question right and to ensure that we can maximise the economic returns and benefits to the state. I think that they are pretty well covered within the objects and there appears to be broad agreement for them.

The Hon. CAROLINE SCHAEFER: Again, I take heart from the minister's words. I think there has been a great deal of bipartisan or tri-partisan cooperation. It is not my desire to prolong unnecessarily this bill, but I did say in my second reading contribution—and I will say again—that I am very concerned that one minister and his department should have as much power as this bill purports to give him and that only because of a successful amendment in another place has economic sustainability been mentioned in this bill. I do not believe that economic sustainability has any greater weight than environmental or social, but I think it has equal weight, and I am merely seeking to have that reassurance in this place.

The Hon. T.G. ROBERTS: I think everyone acknowledges that, if we do not have an ecologically sustainable river, we do not have an economically sustainable one, either: they go hand in hand.

The Hon. T.G. CAMERON: I refer to clause 6(2)(b), which reads well, but I am not quite sure what it means. It says:

> that proper weight should be given to both long and short term economic, environmental, social and equity considerations in deciding all matters relating to environmental protection. . .

An honourable member interjecting:

The Hon. T.G. CAMERON: Well you would not be so verbose. Could you tell me exactly what that means in layman's terms?

The Hon. T.G. ROBERTS: There has been a change in attitude towards the environment generally, and the contributions made on sustainability in the earlier debate highlighted the fact that we do have to take a fresh look at what weight we give to the protection of, and the exploitation of, natural resources. The inter-generational projections for the future of the Murray have to be taken into account, just as we do with short-term management decisions that are made for economic reasons. You have to put together the short-term planning benefits that may come from exploiting the river's resources but you also have to take into account that we have to pass this resource on intergenerationally to allow other generations to enjoy the benefits that we have. Mind you, we have put the river perilously close to being an asset worth nil. I hope we do better when we hand it over to future generations.

Clause passed.

Clauses 7 and 8 passed.

Clause 9.

The Hon. SANDRA KANCK: I move:

> Page 14, line 8—leave out 'to approve, or'.

This amendment alters the power of the minister. As the clause currently stands, it says that one of the functions of the minister under the act is:

> to approve, or to provide advice with respect to the approval of, activities proposed to be undertaken within the Murray-Darling Basin that may have an impact on the River Murray

I would have expected that most such approvals would be given by local government and I do not really believe that it is appropriate that the approval power be given to the minister over local government. My amendment simply removes the words 'to approve, or' so that it gives the minister the power to provide advice on these matters.

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment.

The Hon. T.G. CAMERON: Is it appropriate for me to put a question to the Hon. Sandra Kanck in relation to her amendment, because I am uncomfortable about it?

The CHAIRMAN: As long as it is relevant to this particular clause.

The Hon. T.G. CAMERON: My question to the Hon. Sandra Kanck is that we are supporting a bill to save the River Murray and to give the minister power to take control of the issue. As I see it, your amendment would remove that power from the state government—from him—and hand it back to local government.

The Hon. Sandra Kanck interjecting:

The Hon. T.G. CAMERON: Yes, I understand that local government has that power now. I am puzzled as to why you would want to do that. I am just wondering if you would explain why.

The Hon. SANDRA KANCK: I do not have any evidence that indicates that local government is incapable of making these decisions. I think that everyone in South Australia understands the importance of the River Murray to the environment and to the economy. They are just as capable of making intelligent and informed decisions as the Minister for the River Murray.

The Hon. T.G. CAMERON: Well, I am afraid the Hon. Sandra Kanck has a lot more confidence in local government than I do.

The Hon. Sandra Kanck: You have more confidence in the minister do you?

The Hon. T.G. CAMERON: In this case I would have more confidence in minister Hill than I would have in many of the local government councils. I guess what springs to mind is: if local government were so good at this why have we got these problems? Why has the government seen fit to transfer the approval process away from local government to the minister? I thought that what we were on about was a new way of managing the River Murray, a new system because the old way has not worked. Well, under the old way, local government had the power to approve these matters. I would have thought that now is the time for decisive action to be taken, and that is the view I have in the way the government has acted in relation to the River Murray Bill. I actually support the direction that they are going in, and I would have thought a necessary or intrinsic part of the minister having that power was his having the power to approve, not merely to provide advice.

In my position—and I do not care whether it is a Labor government or a Liberal government—I am keen to give the government the power to take control of this issue, and not to be in a position where 12 months down the track it says, 'Well look, it's not our fault, it's not our responsibility; that's for local government.' We have an opportunity now to hold the minister and the government fully accountable for what happens on the River Murray. I like transparency and I like accountability. We should not be saying, 'Oh well, look, we're now not going to walk down this path. Let's leave it the way we had it before and we'll let local government deal with it.' I am one of those people who is not terribly impressed with the way local government has handled a lot of its planning decisions, etc. So, I would indicate that I am supporting the government.

The Hon. SANDRA KANCK: I would indicate that I think some of the most stupid decisions we have seen in relation to the way the River Murray is used have come from government, and not from local government, and in my second reading speech I referred to the bill that was passed here some years ago called the Irrigation (Transfer of Surplus Water) Amendment Bill. That was a government initiative from the infrastructure minister, which was one of the more stupid things they did. I think everybody recognises that the River Murray is so crucial to us, and people in local government are very close to the situation and are going to be much more aware of some of the repercussions of decision making than the state government will be, based here in Adelaide.

The Hon. T.G. CAMERON: I appreciate the sentiments that the Hon. Sandra Kanck is outlining. I do not know offhand whether we have three or a dozen councils that the River Murray might run through. I would feel much more confident knowing that it would be a hell of a lot more difficult to get at a state minister or to get at a minister on an issue affecting the River Murray, particularly now that it is in the spotlight, than the capacity of some local business

people to get hold of the local council and get something pushed through. Six months later, we will be debating a bill here to stop them from doing it.

I do not want to run off at the mouth with superlatives and adjectives about the River Murray, but the health of South Australia in the forthcoming decades, in my opinion, will be directly related to the health of the River Murray. We are in a position where we are trying to impress upon the federal government, the Queensland government, the Victorian government and the New South Wales government how important we feel the River Murray is in South Australia. We know the cotton farmers are dragging hundreds, if not thousands, of megalitres a year out of the River Murray, and here we are sitting at the end of the tail.

If South Australia is going to be serious about sending a message to the other state governments and to the federal government, I would think we want a situation where we have the River Murray, quite clearly and firmly, under state government control. If we were to support the Democrats' amendment, to my way of thinking, we would end up with six of one and half a dozen of the other: 'Well, we will leave this with the state government, but we will not change what we are leaving with local government.' One has only to look at some of the building approvals at times.

The Hon. J. Gazzola interjecting:

The Hon. T.G. CAMERON: The Hon. John Gazzola mentions the hills face zone. That is another excellent example. One could look at the monstrosities of buildings that the Adelaide City Council has approved in the city. I am not confident that this matter can be left with local government. I am not one who normally likes to see power concentrated in the minister's hands, but here we have an opportunity under this paragraph, provided we leave in the words 'to approve or', to make the Minister for the River Murray responsible and accountable.

The Hon. T.G. ROBERTS: I think we are at a point where we may have to take a breath, unless we can get a consensus out of my reply—which I am sure is a possibility. I was persuaded by the honourable member's contribution. He convinced me to stick to the line. We have not got the Hon. Nick Xenophon or the Hon. Mr Evans with us.

Members interjecting:

The Hon. T.G. ROBERTS: There is a process. It is up to the committee to decide, but the reason that we are opposing it, in a lot of cases, is in the argument put forward by the honourable member. There are a lot of cases of the environment being spoiled as a result of decisions, or a lack of decisions, made by local government. While I was on the ERD committee, I heard about the placement of diesel refuelling stations on the river. Many planning decisions are made for pumps and irrigation pipes, for instance. By the time the state's planning laws are brought into play and have any sort of policing role over decisions made at a local level, it is too late. They are in place and correcting them takes a lot more time, energy and effort than if we had what is the intention of the bill, namely, broad consultation with local government, but the state having the right to intervene if there is inappropriate siting of development projects, for instance.

There are enough instances of bad decisions being made. A new climate may be developing; who knows? A new consensus may be being drawn by local government, state government and the commonwealth in relation to how we deal with the River Murray, but the bill, basically, is the first step in the new direction, as the honourable member has said.

An honourable member interjecting:

The Hon. T.G. ROBERTS: It is not dictatorship. It has been brought in because of the serious state in which we find the River Murray. Ramps, which are placed in inconvenient or awkward positions, are now out of the water and not able to be used. There is a range of structures that, given our planning laws now, we would never have allowed to be put in place. I know it is hindsight and 20-20 vision and all those things, but members should consider the circumstances in which we find ourselves in relation to how the River Murray relies on better planning. Members must decide whether they give local government the power to override or go in front of the state's planning laws.

The printed detailed description of what I am to tell you is that, during the detailed consultation that was carried out in relation to this bill, failures in the current planning system and in the administration of that system were constant themes raised by participants in focus group sessions. Comment was made by participants, ranging from council officers to irrigators to conservationists and officers of government agencies. Comments reflect the very reasons why this government is determined that the River Murray Bill would address deficiencies in the planning system to ensure that the interests of the River Murray are, in future, given special priority in all activities and developments affecting the river. Again, it gets back to the points made by the Hon. Terry Cameron in relation to prioritisation, authority and responsibility. I have given the honourable member three accolades in one evening, which is more than I have given him in the past 10 years.

The Hon. SANDRA KANCK: There are assorted ways, through our democratic processes, that this is not such a problem. For instance, local government by-laws come before this place with the power for disallowance by the parliament. Decisions that are made by local government in regard to planning can be contested through the Development Assessment Commission. The government through the urban planning minister can produce its own powers. Any powers that are produced by local government are submitted to the Environment, Resources and Development Committee which can turn them down. There are many processes and, given that there is a new consciousness about this, I think it is unfair to suggest that local government will continue to make some bad mistakes—which it might have made in the past.

The Hon. T.G. ROBERTS: I think I made that point. I think a new consciousness is developing, and I hope that local government, in conjunction with state planners, do work ahead of the agenda. I think we are saying that the minister would like that power to work and operate, as is set out in the bill. We will not be going in the ditch. It does not constructively change anything within the bill. It does not take away powers from the minister. The clause is scene setting or climate setting rather than giving any powers. It is message sending as well. That is why we would like to send a stronger message.

The Hon. T.G. CAMERON: I have a question for the Hon. Sandra Kanck. Normally, on amendments such as this, involving some diminution in the powers of the Local Government Association, they plague us here at North Terrace. They will either lobby the Democrats or they will come to the Independents. I have received no correspondence from the Local Government Association in relation to this. Will the Hon. Sandra Kanck, for the information of members, outline to the committee whether she has had any discussions with the LGA or whether it is supporting her amendment?

The Hon. SANDRA KANCK: No, the LGA has not been the inspiration for this. I did this because I thought that this was taking away power from local government, and I think democracy at the local level is worth upholding.

The Hon. T.G. CAMERON: I certainly agree that the LGA would not be telling the Hon. Sandra Kanck what to do: that was not my question. My question, which the honourable member neatly avoided, was a simple one. Has the honourable member had any discussions with the LGA, and what is its position on it?

The Hon. SANDRA KANCK: I have had no discussions with it.

The committee divided on the amendment:

AYES (12)

Dawkins, J. S. L.	Gilfillan, I.
Kanck, S. M. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Reynolds, K.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.

NOES (8)

Cameron, T. G.	Evans, A. L.
Gago, G. E.	Gazzola, J.
Holloway, P.	Roberts, T. G. (teller)
Sneath, R. K.	Zollo, C.

Majority of 4 for the ayes.

Amendment thus carried.

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

Page 15, line 18—Leave out 'in' and insert:
when

This is a drafting amendment and, I would not have thought, of any consequence.

Amendment carried; clause as amended passed.

Clauses 10 to 13 passed.

Clause 14.

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

Page 19, after line 21—insert:

(10) An authorised officer must, before exercising powers under this section in relation to a person, insofar as is reasonably practicable, provide to the person a copy of an information sheet that sets out information about the source and extent of the authorised officer's powers under this section, and about the action that may be taken against the person if he or she fails to comply with a requirement or direction of an authorised officer under this section.

(11) For the purposes of subsection (10), an information sheet is a document approved by the minister for the purposes of that subsection.

The new subclause will require an officer, prior to exercising powers in clause 14(1), to provide information in a form approved by the minister to any person present who may be affected by the exercise of an officer's functions. The information will outline the source and extent of the officer's powers and the implications of non-compliance with an authorised officer. The amendment was prepared at the request of Ms Redmond and was agreed by the government.

The Hon. CAROLINE SCHAEFER: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 15 to 17 passed.

Clause 18.

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

Page 22, line 31—Leave out 'must' and insert:
'should take reasonable steps to'

This is upon the suggestion of the member for Bragg in the House of Assembly, to clarify that the lack of effective consultation between a minister and a local council over including a remission of rates would not invalidate a registered agreement. Land management agreements were widely supported during consultation and will be a very useful provision, modelled on similar provisions in the Development Act and similar acts. This clause will enable the minister to enter into land management agreements with land owners, for example, for wetlands protection on private property. That is at the suggestion of the member for Bragg in another place.

The Hon. A.J. REDFORD: The current clause provides that the minister 'must' consult, and the government is seeking to amend it to 'must take reasonable steps to consult'. Would the minister agree that that would lessen the requirement to consult with the relevant council before entering into a management agreement?

The Hon. T.G. ROBERTS: It is a consultation process, and it allows for the agreement to be pursued, probably in a different way; it allows for different models to pursue agreement rather than the word 'must'.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, it is as explained.

The Hon. A.J. REDFORD: The question is simple: does it not lessen the requirement to consult with local councils?

The Hon. T.G. ROBERTS: No, it does not.

The Hon. A.J. REDFORD: What does it do, if it does not?

The Hon. T.G. ROBERTS: Ask the member for Bragg. It was clear before the amendment went in.

The Hon. A.J. REDFORD: Why did the government not agree with it in another place?

The Hon. T.G. ROBERTS: It clarifies the negotiating process. It was a drafting suggestion made to take any conflict out of it; once an agreement was made it would decrease the chances of its being contested or taken to court.

The Hon. A.J. REDFORD: The minister and I are like ships in the night; I ask the question and sometimes the answer bears no relationship to what I ask. What I asked was: why was it not agreed to by the government in another place?

The Hon. T.G. ROBERTS: It was.

The Hon. A.J. REDFORD: Then why do you need to move the amendment if it was agreed to by the government in another place?

The Hon. T.G. ROBERTS: We did not have an amendment on file.

The Hon. SANDRA KANCK: I am having some difficulty with this. It seems to me that, as it provides that the minister 'must consult', the amendment appears to weaken it so that, rather than 'must consult', it now provides 'should take reasonable steps to consult'. My basic understanding of the English language is that there has been a downgrading in the process. My inclination therefore is to oppose this. We are making a lot of changes on the run; we have not had the bill with us for a great deal of time. I do not know what the opposition will do on this but, if this amendment were to be opposed and we could do some talking about it in the meantime, it may be that you will take it back to the lower house and amend it and we may decide that we do not want to insist on the amendment but, as it currently stands, the explanation is just not adequate at this point, and I am not convinced that we should be supporting it.

The Hon. CAROLINE SCHAEFER: Can the minister give us an example of how this amendment may apply and in fact how the word 'must' may apply in actual application of the act as it may be after it is implemented?

The Hon. T.G. ROBERTS: The word 'must' may make it easier for courts to strike down an agreement. If you have to take reasonable steps it decreases the chances. The explanation is that the amendment will ensure that a court cannot strike down a registered agreement on the basis of a future claim by a council that they were not properly consulted over a remission of rates. Instead of somebody saying that they had eight letters sent to them, it cuts out the argument.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Well, if 10 letters were sent to a council about an agreement and somebody made an objection and said, 'That's not enough; we need 20, so you must consult,' you must consult to the point where you get total agreement. This clause makes it easier for the consultation process to be included so that the agreement would not be struck down on the basis that necessary steps were not taken; reasonable steps are required to get an agreement. Reasonable steps might be talking to people—

The Hon. T.G. Cameron: I would have thought it was tougher than before.

The Hon. T.G. ROBERTS: But you are making it less tough in relation to—

The Hon. T.G. Cameron: I'm on your side here; I would have thought the use of the word 'reasonable' actually makes it tougher on the government.

The Hon. T.G. ROBERTS: It would give whoever is making the judgment the flexibility to be able to make a decision rather than being forced into making a decision on the word 'must'. It also brings the language of the provision into line with section 303 of the Local Government Act in regard to reasonable steps to consult over regulations in the legislation. So, it is put together by people of goodwill who have had local government experience in relation to the striking of agreements and the way that they may be treated by the courts. I think this might be a good time to report progress as there are a lot of quizzical looks on people's faces. I am now defending an amendment put forward by the opposition in another place.

The CHAIRMAN: I think you have taken all reasonable steps.

The Hon. T.G. ROBERTS: I have taken too many reasonable steps to get an opposition amendment up in this place, and I cannot even sell it to the opposition. So, I am doing very badly. I will take the advice of the honourable member and report progress.

The Hon. CAROLINE SCHAEFER: I agree with the minister that we should report progress.

Progress reported; committee to sit again.

STATUTES AMENDMENT (ROAD SAFETY REFORMS) BILL

The House of Assembly, having considered the recommendations of the conference, agreed to the same.

ADJOURNMENT

At 10.41 p.m. the council adjourned until Wednesday 4 June at 2.15 p.m.