LEGISLATIVE COUNCIL

Monday 7 July 2003

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions be distributed and printed in *Hansard*: Nos 254, 259 and 260.

NATIONAL ELECTRICITY MARKET

254. **The Hon. SANDRA KANCK:**

1. (a) Has the South Australian government signed any contractual agreements with the owners of the former ETSA that prevent South Australia from withdrawing from the National Electricity Market?

(b) If so, with whom; and

(c) What would be the cost of breaking those contractual obligations?

2. (a) Is South Australia party to any other agreements that would prevent withdrawing from the National Electricity Market?

(b) If so, with whom; and

(c) What would be the cost of breaking those contractual obligations?

3. (a) What is the total amount of National Competition Payments received by South Australia from the Commonwealth government?

(b) How much of that total is as a result of the reforms to the South Australian electricity industry?

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

1. (a) The former government undertook the electricity reform and lease process in the environment of the National Electricity Market ("NEM"). The former government entered the NEM in accordance with the National Competition Policy (NCP) Agreements.

Notwithstanding that, the Business Sale Agreements the government signed with each of the electricity businesses do not of themselves preclude the government from withdrawing from the NEM.

The state's withdrawal from the NEM, however, would necessitate the establishment of new electricity market arrangements, the development of which would be a costly exercise for both the Government and the electricity entities. While these costs are likely to be considerable, it is unclear as to whether withdrawal from the NEM would produce economic benefits for the State or result in lower prices for consumers.

The state's withdrawal from the NEM would also create significant sovereign risk for the State as the parties have entered the market in accordance with the NCP Agreements. Changes to these Agreements risk future investment in the State.

(b) This question is not relevant in light of the response to part (a) of question 1.

(c) This question is not relevant in light of the response to part (a) question 1.

2. (a) The South Australian Government is not a party to any agreement specifically preventing the State's withdrawal from the NEM.

The South Australian Government is, however, a party to the National Competition Policy Agreements comprising the following three Intergovernmental Agreements:

- Conduct Code Agreement
- Competition Principles Agreement
- Agreement to Implement the National Competition Policy and Related Reforms
- The ramifications of withdrawing from the Intergovernmental Agreements are dealt with in the response to question 2 (c) below.

(b) The States, Territories and the Commonwealth Government are parties to the above-mentioned Intergovernmental Agreements. These Agreements were endorsed by the Council of Australian Governments ("CoAG") on 11 April 1995.

(c) The Agreement to implement National Competition Policy and Related Reforms makes provision for specified financial assistance from the Commonwealth. This assistance is conditional on the States making satisfactory progress with the implementation of the requirements of the Conduct Code Agreement and Competition Principles Agreement and also with the implementation of related reforms which have been the subject of separate CoAG agreements. These related reforms include the establishment of a competitive national electricity market.

The National Competition Council reviews the States' performance against the above agreements and provides recommendations to the Federal Treasurer regarding competition payments. Failure by the South Australian Government to meet its obligations regarding the National Electricity Market would likely incur such a penalty, namely, a reduction in or withdrawal of future competition payments.

3. (a) As at 30 June 2002 South Australia had received $160.05 million in NCP payments since their introduction in 1997-98. The most recent Commonwealth estimates (released at the March 28 2003 Ministerial Council) have South Australia receiving $57.1 million in 2002-03 and $58.0 million in 2003-04.

(b) The annual NCP payments are subject to the State making satisfactory progress with the implementation of the vast array of reform conditions specified in the Agreement to Implement the National Competition Policy and Related Reforms. It is not possible to apportion the quantum of the payments to individual components of the reform process.

MOTOR DEALERS INDEMNITY FUND

259. **The Hon. R.D. LAWSON:**

1. What was the balance of the fund as at 30 June and 31 December 2002 respectively?

2. In relation to the year ended 30 June 2002—

(a) Was any amount paid out of the fund, and if so what, to meet a claim or claims against a seller of a motor vehicle who was not a licensed dealer and who had not contributed to the fund?

(b) Was any amount paid, and if so what, to meet a claim or claims against an auction house?

(c) Was any amount paid out of the fund, and if so what, to meet a claim or claims against a person who was not a licensed dealer and who sold a vehicle on consignment?

(d) Was any amount deducted contributions to the fund, and if so what, for, or on account of administration expenses?

3. (a) Does the government provide each licensed dealer who contributes to the fund an annual report of the operations of the fund; and

(b) If not, will the government agree to provide to all licensed dealers an annual report of the operations of the fund, including a statement of receipts and payments; and

(c) If not, why not?

The Hon. T.G. ROBERTS: The Minister for Consumer Affairs has received this advice:

In relation to the Motor Dealers Indemnity Fund—

1. The balance of the Second-hand Vehicles Compensation Fund as at 30 June, 2002, was $2 059 000.

The balance of the Second-hand Vehicles Compensation Fund as at 31 December, 2002, was $2 180 000.

2. (a) $69 000 was paid out of the Fund to compensate consumers who had suffered a loss as a result of their dealings with one motor vehicle dealer. The total compensation paid resulted from the failings of vehicle dealer Smitsu Pty Ltd, trading as Grantley Schmidt and Associates Auto Brokers, who ceased trading in February 2001. Smitsu Pty Ltd was a licensed vehicle dealer and had contributed to the Fund. Mr Grantley Schmidt was the nominated manager for Smitsu Pty Ltd trading as Grantley Schmidt and Associates Autobrokers.

(b) No amount of compensation was paid to meet a claim against an Auction House.

(c) No amount of compensation was paid to meet a claim against a person who was not a licensed dealer and had sold a vehicle on consignment.

(d) Cash amounts deducted from the fund, other than for the payment of claims, were as follows:

- $38 000 for the administration of the fund and the investigation of claims on the fund;
- $11 000 for audit fees, debt recovery and liquidation costs;
- Unfavourable investment market conditions resulted in a negative non-cash movement in investments with Public Trustee. The

amount expended in accordance with Australian Accounting Standards was $102 000.

3. (a) The Commissioner for Consumer Affairs publishes an Annual Report that contains the financial statements of the fund. The Annual Reports of the previous year and years back to 1998/1999 can be obtained from the Commissioner's website: www.ocba.sa.gov.au. Hard copies of reports from earlier years can be obtained from the Office of Consumer Affairs. The Office of Consumer and Business Affairs meets quarterly with the Motor Trades Association and the status of the fund is a standing item at such meetings.

(b) No.

(c) The government provides access to the fund's financial statements on the internet and upon request. It would be a waste of the fund's resources to issue individuals with hard copies when they are freely available electronically.

SNOWTOWN MURDERS

260. **The Hon. IAN GILFILLAN:** What was the total cost to the taxpayers of the Snowtown committal hearing?

The Hon. T.G. ROBERTS: The Attorney-General has advised that:

It is difficult to extract the costs of the committal accurately from investigation and trial-preparation costs. However, the total cost of the Bodies in the Barrels Murders case as at 30 June, 2001 (being shortly before the committal hearing finished, on 4 July, 2001) was $4.337 million.

This expenditure includes the costs of the private-sector defence legal teams assigned and administered by the Legal Services Commission and the costs of agencies working on the conduct of the case at that time, namely, the SA Police Department, Office of the Director of Public Prosecutions, Courts Administration Authority, Victim Support Service, Attorney-General's Department and the Crown Solicitor's Office.

CITY OF ONKAPARINGA REPORTS

The PRESIDENT: I lay on the table reports of the City of Onkaparinga 2001-02 pursuant to section 131(6) of the Local Government Act 1999.

QUESTION TIME

CORRUPTION ALLEGATIONS INQUIRY

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Attorney-General a question about the Rann government corruption allegations inquiry.

Leave granted.

The Hon. R.I. LUCAS: Members will be well aware that significant concerns have been expressed in the media and the community about the attempt by the Rann government to keep secret forever the grave allegations of corruption and bribery made in relation to senior Rann government figures, both advisers and ministers, late last year. Mr President, as you will know, this issue surfaced publicly only as a result of questions asked in the parliament in recent weeks by the Liberal Party. Also, concerns have been expressed in the last few days that senior Labor Party figures—staffers and/or ministers—have indicated they will not cooperate fully with the Anti-Corruption Branch inquiry.

I want to refer briefly to Mr Randall Ashbourne, who is a senior political adviser to Premier Mike Rann and on his personal ministerial staff. As all members would know, he has been given the authority by Premier Mike Rann on a number of occasions to sort out difficult issues for Premier Rann and for the Rann government. The opposition has been advised in the last 72 hours by sources from within the Labor Party that Mr Randall Ashbourne, who is a key figure in the Anti-Corruption Branch inquiry, has indicated that he will not cooperate fully with the inquiry other than to provide basic information such as name and address.

An honourable member interjecting:

The Hon. R.I. LUCAS: Name, rank and serial number has been suggested. Has the Attorney-General been advised that Mr Randall Ashbourne, a senior political adviser in the office of the Premier, has refused to cooperate fully with the Anti-Corruption Branch inquiry?

The Hon. P. HOLLOWAY (Attorney-General): Obviously there is only a limited amount of information I can say on the matter, given that a police Anti-Corruption Branch inquiry is occurring right now. What I can reveal today is that the Premier gave his evidence to the police investigation yesterday and, of course, the Deputy Premier was interviewed last week. The government is looking forward to this matter being concluded, but when that will be is entirely in the hands of the police investigation.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Premier's view is the same as mine; that is, if anyone needs to be prosecuted, they will be prosecuted; if anyone needs to be punished, they will be punished; if dismissal is warranted, it will happen; if reprimands are required, they will occur; and, if an apology is needed, that will be given. If any issue needs to be cleared up, it will be. However, I am absolutely confident that the police inquiry will find that my former colleague Michael Atkinson has done nothing wrong—and, the sooner he is reinstated as Attorney-General, the better. Throughout the entire process the Deputy Premier, Kevin Foley, has consulted with the Premier. He has the Premier's full support and he did an outstanding job as Acting Premier in handling this matter.

The government has been very careful to deal with this issue very properly all the way through, and we are continuing to deal with it very properly. The matter was referred to the Anti-Corruption Branch inquiry because last week the Crown Solicitor advised the Deputy Premier to do that. From the outset, the Premier has relied on expert and legal advice, and he has acted on that advice. I want to make some important points about this. At no stage did the Premier attempt to sweep this matter under the carpet. Just imagine what the former government would have done, going on its previous form—eight years of it—

Members interjecting:

The PRESIDENT: Order! The answer will be heard in silence.

The Hon. P. HOLLOWAY: Would the previous government have called upon the chief executive officer of the Department of the Premier and Cabinet to undertake an immediate investigation into claims that had come to the Premier's attention that same day? Would the previous premier have done that? Absolutely not. Would the previous government have asked the CEO to determine whether there needed to be a further inquiry and that the government was prepared to cooperate fully with any further inquiry? Would it have done that, given its previous record? Absolutely not. Would it have allowed the expert advice of a former senior government lawyer with vast experience in state government matters? Did it do that in any of the cases? Of course not. Would it have called in the expertise of a QC?

Importantly, once concluded, would the previous government have referred the whole matter to the Auditor-General, as was done in this case? I think not. That is the difference between the former government (of which the Leader of the

Opposition was treasurer) and this government. We have seen plenty of their scandals. We have seen them attempt to hide, cover-up and make secret all their dodgy deals and mistakes. Indeed, we even saw a former premier refusing to stand down during investigations into actions that they had attempted to keep secret, and during this time both Rob Kerin and Rob Lucas were members of that cabinet, and for a long time Rob Kerin was the Deputy Premier. Compare that with the response of this government. The government acted immediately and ordered an investigation by the highest public servant in this state—

Members interjecting:

The PRESIDENT: Order! Members are obviously fired up today. The question was heard in silence and so should the answer. There is ample opportunity for questions to be asked by all members of parliament. The Attorney-General has a soft voice and I cannot hear him, and I do not think other members who are interested can hear him, either.

The Hon. T.G. Cameron: He doesn't want to listen to himself.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: This government acted immediately and ordered an investigation by the highest ranking public servant in the state and, upon completion of that report by the highest ranking public servant in the state, was advised in very strong terms not to make public the McCann report because of issues of natural justice. That was the advice.

Members interjecting:

The Hon. P. HOLLOWAY: Apparently, the people opposite laugh at the concept of natural justice.

The Hon. A.J. Redford: Whose natural justice—the government's?

The Hon. P. HOLLOWAY: No, it should be pretty obvious to the honourable member, I would have thought. Perhaps if he thinks about it, as a lawyer, he might come to a conclusion. But the Premier was not satisfied with that advice. He determined that if he could not make it public he would bring the report and the accompanying material to the attention of someone whose integrity is beyond reproach and who is the most senior watchdog of government. That is why it went to the Auditor-General. In this way, the Premier was being open with and accountable to one of the most senior independent officers of the Parliament of South Australia.

The Auditor-General could have done anything with the material sent to him. Had he so chosen, he could have sent it straight back and said, 'Premier, you must do something different. You must immediately have a further inquiry. You must immediately do something different from the action you have taken.' That was up to him. But the Auditor-General sent a letter to the Premier saying that he had reviewed all the material sent to him and in his opinion all the actions taken in the matter were appropriate to address all the issues that had arisen.

The Premier trusts the Auditor-General, I trust the Auditor-General and the parliament trusts the Auditor-General. His word is good enough for the government and is good enough for the parliament. But, above everything else, I make the point crystal clear (because it is a point that seems to have been lost in the reporting of this matter and it is absolutely critical) that the person in question has not been appointed to a government board. It has never been contemplated by the Premier or the cabinet; it never will be contemplated by the Premier or the cabinet; and it will never happen while Mike Rann is Premier. That is essentially all I can say on the matter until such time as the investigation has been completed.

But to turn to the specifics of the question, the Premier made it very clear at a press conference on Saturday that he wants and expects everyone to fully cooperate with this investigation. Because the investigation was an initiative of the government, I fail to see why government officials would not cooperate with it. I suspect that the question and the disgraceful comments that have been made by members of the opposition have more to do with someone making up the story to kick it along. I can assure you, Mr President, that the police would not brief the opposition on whether or not people were cooperating with the investigation. So, members opposite should be very careful if they want to peddle those sorts of baseless rumours. It was not all that long ago that Rob Kerin was Premier and the Leader of the Opposition was Treasurer to Premier John Olsen in the former government, and one wonders at their preaching about the need to be open and honest with the many and varied inquiries into ministers and the premier during the term of that government.

The Hon. R.I. LUCAS: I have a supplementary question. Can the Attorney-General indicate whether any of the people who have already made inquiries to whom he has referred (such as the Chief Executive Officer of the Department of Premier and Cabinet, the Victorian legal advisers who were commissioned, and the Auditor-General) actually spoke to Ralph Clarke?

The Hon. P. HOLLOWAY: The important point is that none of those officers, including Mr McCann, was fettered in any way in the conduct of their inquiries. They were unfettered.

The Hon. R.I. Lucas: Answer the question.

The Hon. P. HOLLOWAY: That is up to them, but they were unfettered. Mr McCann, when he was asked to conduct the inquiry, was quite unfettered in the way in which he conducted his inquiry.

The Hon. R.I. LUCAS: I have another supplementary question. Is the Attorney-General refusing to indicate that he has been provided with advice that Mr Randall Ashbourne, a senior political adviser to Premier Mike Rann, has refused to cooperate fully with the Anti-Corruption Branch inquiry?

The Hon. P. HOLLOWAY: I have not personally seen any information to that effect, no, and I do not know whether or not it exists.

The Hon. R.I. Lucas: Have you been advised?

The Hon. P. HOLLOWAY: No, I was not advised, until the time it was raised. Whether my office has been advised, I do not know. But I have not. That is news to me, Mr President.

The Hon. IAN GILFILLAN: I have a supplementary question. As the Attorney-General has indicated that he and the government are not prepared to release the McCann report, would he consider releasing the Auditor-General's report and, if not, why not? And, while releasing information relevant to the issue, would he release the list of all nominees for positions on state government boards and committees during this government's term?

The Hon. P. HOLLOWAY: The information on the boards and committees during the government's term is released: it is tabled in parliament shortly after the end of the financial year every year. If the honourable member is suggesting that the person concerned in this has been

suggested, I can tell him that he is absolutely wrong. There has never been any nomination for that person's position. That was part of the answer to the question I gave earlier, and I fully stand by it. In terms of the Auditor-General's report, I am not sure exactly what information my colleague the Deputy Premier tabled last week. He may have provided a letter from the Auditor-General. I will look at that and if the information is available will provide a copy to the honourable member.

The Hon. R.I. LUCAS: As a supplementary question, will the Premier direct Mr Randall Ashbourne, senior political adviser in his office, to cooperate fully with the Anti-Corruption Branch inquiry and, if not, why not?

The Hon. P. HOLLOWAY: I just made quite clear in the answer that I gave that the Premier has made it clear that he expects his office to do it. Whether the Premier has the power to direct individuals is a matter on which I would need to take legal advice. The important matter here is that the Premier has made quite clear that he expects people to cooperate. The Premier has made quite clear that he expects all his ministers and staff to cooperate with the inquiry and I would expect that that will happen.

The Hon. A.J. REDFORD: As a supplementary question, will the Premier undertake not to reappoint Mr Ashbourne if he does refuse to answer questions or cooperate?

The Hon. P. HOLLOWAY: I am not going to answer for the Premier in relation to those questions. I repeat: the Premier has said that he expects his staff to fully cooperate, and I would expect that to happen.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about the Rann government corruption allegations inquiry.

Leave granted.

The Hon. R.I. LUCAS: Early in 2002, the confidential ministerial staff directory included, as chief of staff to the former Attorney-General (Hon. Michael Atkinson), a Ms Cressida Wall. The confidential ministerial staff directory later in 2002 indicated that Ms Cressida Wall became the acting chief of staff to the Deputy Premier and Treasurer (Hon. Kevin Foley) and, later in 2002, became chief of staff to the Deputy Premier and Treasurer (Hon. Kevin Foley). Labor Party sources, again, have advised the opposition that the information that was provided to the Deputy Premier and Treasurer late in 2002, of which he has talked publicly since questioning in the House of Assembly, was in fact provided by the former chief of staff to the former Attorney-General, Ms Cressida Wall. Can the Attorney-General confirm that the staff member to whom the Deputy Premier and Treasurer has publicly referred, who provided the information about these allegations to the Deputy Premier and Treasurer late in 2002, was in fact Ms Cressida Wall, the former chief of staff to the former Attorney-General (Hon. Michael Atkinson)?

The Hon. P. HOLLOWAY: That is a matter that I will refer to the Deputy Premier.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question.

Leave granted.

The Hon. R.D. LAWSON: Section 251 of the Criminal Law Consolidation Act provides that a public officer (and that includes a minister or an employee of the crown) who improperly exercises power or influence with the intention of securing a benefit for another person is guilty of an offence incurring imprisonment for a maximum of seven years, that offence being described as abuse of public office. Section 253 of the same act provides that a person who improperly offers to give a benefit to another in connection with the possible appointment of a person to a public office is guilty of an offence carrying a penalty of up to four years' imprisonment. This is described as offences relating to the appointment of public officers. The act also provides that a person who attempts to commit any of these offences is also guilty of an offence. My question is: does the Attorney-General agree that the offering of an appointment to a government board in exchange for the discontinuance of a private legal action is a serious criminal offence, both by the person who makes the offer and also by anyone who aids, abets or counsels it?

The Hon. P. HOLLOWAY: Yes.

MURRAY RIVER FISHERY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on the River Murray cod fishery.

Leave granted.

The Hon. CARMEL ZOLLO: The government has banned the use of gill nets in the River Murray and has been involved in negotiations with river fishers in relation to this matter. My questions to the minister are:

1. What is the status of negotiations with the river fishers?
2. Have there been any other developments in this area that will affect the river fisheries?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The government's latest and final offer of compensation closed at 5 o'clock on Friday 27 June. At that time, nine fishers had expressed interest in the government offer. Since that time, deeds that confirm their intent to cease fishing and provide for the payment of compensation or ex gratia payments have been forwarded on to those who have expressed an interest. I signed off on the last couple of those just a few moments ago. Two fishers have expressed interest in working a non-native fishery in the river, and officers from the department will be meeting with these people again to develop the best package of arrangements and fishing gear necessary to assist with the control of carp.

Some fishers have indicated their intention to seek leave to appeal to the High Court on matters relating to the recent Supreme Court case on this issue, and that is a matter for the fishers. The government's offer has closed. No further commercial licences to fish the River Murray for native species will be granted under the amended fishery regulations, and fisheries compliance officers will be enforcing the fishing laws and regulations of this state on the River Murray.

In answer to the second part of the honourable member's question, the river fishers may wish to consider the legal and constitutional implications of the recent announcement by the federal Minister for the Environment and Heritage, Dr David Kemp, which placed the Murray cod on the national list of threatened species. In his press release, Dr Kemp stated:

> Listing the Murray cod as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999 highlights the need for the protection and careful management of this iconic and magnificent species, which makes its home in one of our most important and most stressed rivers. The Murray cod is regarded as a wildlife icon of the Murray-Darling Basin and is one of the most popular target fish for freshwater anglers due to its size, good eating

and ability to put up a strong, hard fight whilst in deep water. They are known to live up to 100 years, growing to 1.8 metres and weighing up to 110 kilograms but cod of this magnitude are extremely rare today.

Dr Kemp continued:

Murray cod occur naturally in Murray-Darling Basin waterways, in warm water habitats ranging from clear, rocky streams to slow-flowing turbid rivers and billabongs. As the fish predator at the top of the food chain in the Murray-Darling river system, Murray cod provide one of the best indicators of the health of the riverine system, including water quality and riverine habitat. The problem is that natural populations of the Murray cod have declined dramatically since European settlement, and the long-term survival of the species is of concern.

The Murray cod has been assessed as having a 30 per cent decline in numbers over the last 50 years. This decline is inferred from the dramatic decreases in commercial catches from the 1950s until present. Experts estimate that native fish communities in the Murray-Darling are currently at 10 per cent of pre-European levels.

Dr Kemp continued:

When we are able to take the Murray cod off the threatened species list we will know that our efforts to help bring the Murray back to life have been successful.

He continues:

While local sites may still support good stocks of Murray cod, the sites are fragmented and under threat from habitat degradation, cold water pollution from large, deep dams, disruption to natural river flows and introduced species.

Under the EPBC Act listed species are considered to be a matter of national environmental significance. As a consequence, any activity likely to have a significant impact on the Murray cod needs to be assessed and approved by minister Kemp. Dr Kemp did continue to say:

Recreational fishing of Murray cod is already regulated in all range states and territories. The catch of a recreational angler, in accordance with current state and territory laws, is unlikely to have a significant impact on the species, but new actions such as large scale de-snagging activities or the construction of large weirs or dams may need to be referred under the EPBC Act.

To complete his statement:

Murray cod are highly dependent on in-stream woody structures for habitat breeding sites. By taking this action the Howard government is ensuring the Murray cod will remain a national icon for future generations.

Dr Kemp said that the draft native fish strategy for the Murray-Darling Basin would assist with recovery of Murray cod stocks as it aims to rehabilitate native fish populations back to 60 per cent of their pre-European settlement levels over 50 years. His comments underline the fact that the action the government has taken in this matter has been in accordance with the strategy of the Murray-Darling Basin Commission, and I am pleased that Dr Kemp's timely actions dovetail with those taken by the state government in relation to the river fishery.

CORRUPTION ALLEGATIONS INQUIRY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General a question concerning a 1998-99 investigation by SAPOL into allegations of interference in legal proceedings by the then leader of the opposition and now Premier, Mike Rann.

Leave granted.

The Hon. SANDRA KANCK: The recent events that have led to the standing down of former attorney-general Mr Michael Atkinson have their genesis in allegations of domestic violence made against the then deputy leader of the opposition, Ralph Clarke, by his former de facto, Edith Pringle, in 1998. Those allegations resulted in a 1999 court case in which the Director of Public Prosecutions entered a nolle prosequi on the three charges of common assault brought against Mr Clarke.

On the day the prosecution was withdrawn, Mr Rann made a sustained attack under parliamentary privilege upon the character of Ms Pringle, labelling her a liar and accusing her of perjury. In short, he did this because Ms Pringle had accused Mr Rann and others of attempting to influence her to have charges of assault against Mr Clarke withdrawn. SAPOL conducted an investigation into Ms Pringle's allegations of interference. SAPOL's report was reviewed by Mr Rofe, who decided there was 'insufficient evidence' to proceed with charges against Mr Rann and no evidence against others. That report was never released. Today's editorial in the *Advertiser* calls for both the police report and an independent inquiry into the latest allegations to be released, stating:

An open and accountable government will realise nothing less is acceptable.

I believe the same principle must be applied to the 1998-99 investigation. My questions are:

1. Will the Attorney release the report of the SAPOL investigation into allegations of interference by Mr Rann and others into assault allegations made by Ms Pringle against Mr Clarke and, if not, why not?

2. If not, will the Attorney-General release a list of witnesses interviewed for the investigation and, if not, why not?

3. Did all people interviewed for the 1998-99 SAPOL investigation cooperate fully with the police?

The Hon. P. HOLLOWAY (Attorney-General): In relation to that latter question I could not possibly know the answer, but I will take the question on notice and give the honourable member a response. I think that, effectively, the honourable member was asking whether I would release a report of a police investigation. I am not sure who the recipient of that would have been. I am sure it is not normal to release such reports, but I will consider the matter.

SA WATER

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 Government Enterprises, questions about SA Water.

Leave granted.

The Hon. T.G. CAMERON: Mr President, 2003 is the year of water in the environment. The United Nations Environment Program (UNEP) is stressing the need for better management of our water supply system around the world. In South Australia, we are facing water restrictions for the first time in over 20 years, and in winter. In 1996, South Australia entered into a new era of managing its water supply with the introduction of the outsourcing program for the operation and maintenance of Adelaide's water supply and the construction of new water treatment plants in the Riverland. Despite all these promises for improving our water supply, Adelaide is facing water restrictions in the middle of winter 2003. South Australians are entitled to ask: how did we get into this predicament?

I am fully aware of the issues surrounding the recent drought, but I want to know more about what is being done to improve the reliability and quality of the water supply for the people of this state. After all, since our inception as a

state, we have known that we are living in the driest continent on earth, so I would have thought that we would have well qualified people operating on well developed plans to protect our future supply of water.

I am also aware that SA Water uses Optimised Deprival Value (ODV) to depreciate its assets to increase the value of the assets owned by SA Water (and, therefore, the state's assets) when compared with normal business depreciation. I understand that the Auditor-General raised objections to the practice about three years ago, but the practice has continued. By using ODV, the assets of SA Water are valued at about $6 billion. However, when normal business value is applied, they may be worth in the vicinity of only $3.5 billion to $4.5 billion. My questions to the minister are:

1. What are the methods used by other Australian state owned water companies in depreciating their assets when comparing operational and maintenance costs to asset value?

2. Since the outsourcing of the operations to United Water in 1996, how much money has the government collected from water and waste water charges, how much has been paid to Treasury as dividend, how much of this money is the so-called community service obligations and how are they calculated?

3. How much money has United Water spent on improving the water and waste water system through the construction of major new works that would improve the water supply to South Australia?

4. Excluding investment for the environment and safety upgrades, how much—and on what—has SA Water spent on improving the water supply through the construction of major works?

5. During 2001-02, did SA Water commission any engineering or technical related consultancies? If so, why were they not listed in its 2001-02 annual report?

6. How do the average water and waste water tariffs charged to the people of South Australia compare with the other states? With such a large profit being made by the SA Water Corporation, can these tariffs be reduced if the money is not being used to improve the water and waste water services for the people of South Australia?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The Hon. Terry Cameron asked me that question, presumably, in my capacity representing the Treasurer. I would have thought that those questions are probably more beneficially directed to my colleague Jay Weatherill, who has SA Water as one of his responsibilities—although waste water charges could also come under the umbrella of my colleague minister Hill. I will take those questions on notice and obtain an answer from the appropriate minister.

CORRUPTION ALLEGATIONS INQUIRY

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about the Rann government corruption allegations inquiry.

Leave granted.

The Hon. A.J. REDFORD: First, I congratulate the Attorney-General on his recent elevation. Members on this side are pleased to see him now hold this position. On 30 June last, the then acting premier, Kevin Foley, some five sleeps before the return of the Premier, issued a press release (which was issued subsequent to the Attorney-General's being sworn in), which included the following sentence:

> I am confident the Attorney-General will return to the front bench at the conclusion of this investigation.

Soon after that, an amended press release was issued, and that key sentence was deleted. Various Labor Party sources have advised the opposition that, in fact, it was Premier Rann himself who indicated that he wanted that sentence removed immediately. In the light of that, my questions to the Attorney, who was Attorney at the time that this press release was issued, are:

1. Did the Premier issue a directive to remove the sentence, 'I am confident the Attorney-General will return to the front bench at the conclusion of this investigation,' from the press release issued by acting premier Foley on Monday 30 June 2003?

2. Does the Attorney agree with the direction given by the Premier?

The Hon. P. HOLLOWAY (Attorney-General): I have no knowledge whatsoever of any direction being given. However, what I do have knowledge of is that both the Premier and the Deputy Premier have made it quite clear that they believe that the position of the former attorney-general, my colleague the Hon. Michael Atkinson, will be vindicated as a result of the inquiry that is currently under way.

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Attorney-General a question on the Rann government corruption allegations inquiry.

Leave granted.

The Hon. R.I. LUCAS: The confidential ministerial staff directory of November 2002 lists Ms Sally Glover as the senior legal adviser in the Premier's office. However, the same confidential ministerial directory for March 2003, just four months or so later, no longer lists Ms Sally Glover as senior legal adviser to Premier Rann. My questions are:

1. After the date in late 2002, when the Premier claims to have been first made aware of the Rann government corruption allegations issues, was the Premier's personal ministerial legal adviser, Ms Sally Glover, involved in any way in providing advice on the government's process of considering these allegations?

2. Did she express any concerns to the Premier about the handling of these allegations?

3. Why did Ms Glover resign soon afterwards, in January or February 2003?

The Hon. P. HOLLOWAY: It is my understanding that Ms Glover, or her partner, was offered a position interstate. However, I will confirm that with the Premier's office.

ABORIGINAL STUDENTS

The Hon. J. GAZZOLA: Has the Minister for Aboriginal Affairs and Reconciliation seen reports regarding the outstanding success of two Aboriginal students from Glossop High School?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his positive question in relation to my portfolio of Aboriginal Affairs. When one scans the daily papers, in most cases many of the questions relating to my portfolio have negatives built into them, particularly in relation to the attacks on ATSIC at the moment. I have seen the positive reports in the *Advertiser* in relation to the two year 11 students, Briney Lampard and Rebecca Richards, who won scholarships

recently to help them with their education. These students have received the ultimate reward for showing commitment to their school work, community activities and personal interests.

We do not often get good, solid role-modelling stories in the daily press. However, these two Glossop High School students were outstanding students who have shown leadership within their community. Those who know the difficulties that the Aboriginal community faces in the Riverland with holding students in primary and secondary schooling, and moving them through into the tertiary education system, understand that we need more students such as Briney Lampard and Rebecca Richards within regional communities with large concentrations of Aboriginal people, such as Port Augusta, Ceduna, Port Lincoln, the Riverland, and so on, to show leadership, raising the levels of participation of young Aboriginal people through all stages of education. We certainly need leadership to follow the examples shown by these two students through into the tertiary institutions, where we now have an opportunity to raise the numbers and the standards of the students in the system.

It is pleasing to note that last year a record 62 students (including 50 attending government schools) achieved the SACE certificate. So there is a gradual process of improvement in Aboriginal education starting to occur within the community, and I would be happy to report continuing improvement at a future date. However, at the other end of the scale we have difficulties holding the interest of young Aboriginal children, particularly as regards dealing with truancy and trying to get family and community commitment to provide the support that young Aboriginal people require in communities that do not have the resources that the broader community has.

So I pay tribute to the teachers, the parents and the extended families who have provided support for Briney Lampard and Rebecca Richards, and for all those other young Aboriginal people in the South Australian community. Many of the children have to deal with difficulties in their family circumstances and in their own lives, while trying to maintain the impetus that can carry them through into senior secondary and tertiary institutions, where leadership is certainly being sought within the Aboriginal communities (as reported in many of the daily papers) to progress a wide range of opportunities for the broader community in health, education, housing and mentoring.

GAY AND LESBIAN MINISTERIAL ADVISORY COMMITTEE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the formation of a ministerial advisory committee on gay, lesbian, bisexual, transgender and intersex health services and issues.

Leave granted.

The Hon. KATE REYNOLDS: More than a year ago, in April 2002, the Minister for Health announced the government's intention to establish a ministerial advisory committee on gay, lesbian, bisexual, transgender and intersex issues and said that she would advertise for expressions of interest for committee positions. However, it appears that no action has been taken to establish such a committee. This is despite other states recognising the urgent need to investigate health issues relating to gay, lesbian, bisexual, transgender and intersex people.

Last year, the Victorian government's ministerial advisory committee on gay and lesbian health released a report based on two years' research which found that systematic and ongoing discrimination against sexual and gender minorities resulted in primary health issues and patterns of illness, as well as a reduction in their access to mainstream health services and the quality of care these people receive. The Victorian government has acted swiftly to implement a key recommendation from the report to establish a gay and lesbian health resource centre and has already committed $1 million for the project. My questions are:

1. When will the minister keep to her promise and establish a ministerial advisory committee on gay, lesbian, bisexual, transgender and intersex health services and issues?

2. Will the minister consult with members of the gay, lesbian, bisexual, transgender and intersex community regarding the terms of reference of the ministerial advisory committee?

3. Will the minister advertise for expressions of interest for positions on the committee?

4. How will the ministerial advisory committee be resourced?

5. Will the minister commit to developing an action plan based on recommendations made by the committee?

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 report.

ABORIGINES, CORRECTIONAL SERVICES

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions about Aboriginal prisoners.

Leave granted.

The Hon. A.L. EVANS: On 26 March this year, I asked the minister a series of questions relating to the portfolio of Aboriginal affairs and reconciliation. Specifically, I asked when would we expect to see the government's Aboriginal affairs policy across broad key areas of housing, health, education and training, and specific program areas such as death in custody, substance misuse and domestic violence. In response to the questions the minister said that the government had been handling a 'whole range of problems', without spelling out in detail what the policy developments are in those areas.

The government said that it was working through the recommendations from the Drugs Summit to find direction for dealing with prisoners who enter our system affected by drugs and alcohol. I note that, as a response to my questions, the ALP web site has been amended and the government's policy framework on indigenous Australians has been included. This week, our state celebrates NAIDOC week, a time when Aboriginals and non-Aboriginals join together to celebrate indigenous culture, heritage and to offer statements of hope for the future. My questions to the minister are:

1. What is the proportion of Aboriginal prisoners compared to non-indigenous people entering the prison system with drug dependent addictions?

2. Can the minister provide information on the type of support and counselling being proposed or offered to Aboriginal prisoners as a result of the recommendations from the Drugs Summit?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his questions and for his acknowledgment of the posting of our policy on the web site. I hope it is up to date. It has only recently been posted. In his explanation, the honourable member gave a history of our policy development since we have been in government. We were developing our policy in conjunction with communities and with elected members. A lot of those meetings were held over a wide range of time frames. We have only just recently been able to launch the policy, with cabinet's approval, into the broader community.

The Aboriginal community in South Australia was very patient with us, in that they were able to see that we were trying to patiently put together a policy that reflected the issues that were contemporary and that we were not going to post a policy that was based in the past. The policy looks to gaining experience from the past but puts current policy forward so that there is some future direction to be examined by communities as to where our policy is going.

On the specific questions in relation to the number of Aboriginal people within our system, I do not have the details and I will get back to the honourable member on that matter. The numbers vary, but within the prison system, on an average nationally, it is probably in the vicinity of 25 to 27 per cent in most prisons, depending on geography, with some higher and some lower. It is certainly disproportionately higher when considering the number of Aboriginal people living in our communities generally. The number of drug affected prisoners—that is, those who come into our prison system suffering from drug or alcohol problems—is in the same percentage range as the broader community, in the vicinity of 70 per cent, which is far too high.

With regard to rehabilitation, specific programs that have a distinctive Aboriginal perspective are being developed for young Aboriginal people and for mature Aboriginal people within our system. The percentage in Port Augusta gaol would be much higher than you would expect in, say, Yatala, but overall the average is far too high. The issues in relation to Aboriginal people in prisons are the same in this state as in the rest of Australia; that is, the best way we can deal with this problem is prevention. Once people are caught in the net and enter our correctional facilities, they need rehabilitation programs that reflect the nature and culture of Aboriginal people when they are incarcerated. We are looking at a wide range of alternatives to incarceration, that is, non-custodial sentencing.

A number of courts that operate in Port Adelaide deal with broader family matters and have components of family consultation and correction of risky lifestyles, and some improvements are being made in those areas. There is a long way to go in prevention and, as I was saying about education earlier, particularly with young Aboriginal people, the best thing we can do is provide a climate of choice and opportunities for Aboriginal people in this state and to try then to guide those people who break the law away from custodial sentences into other alternatives. I will relay the specific answers to the honourable member's important questions back via the normal method, but I hope that at least in part I have been able to answer some of the questions asked.

CORRUPTION ALLEGATIONS INQUIRY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the anti-corruption inquiry.

Leave granted.

The Hon. R.D. LAWSON: In the media release issued on 30 June by the then acting premier, reference was made to a 'very serious claim' that centred around a ministerial staff member speaking to a person involved in private litigation with the Attorney-General. Claims were made that offers of government board positions were made by the ministerial staff member who has subsequently been identified as Mr Randall Ashbourne. The acting premier went on to say in his release that Mr Ashbourne had been sent 'a very stern letter of reprimand and warning about future conduct.' My questions to the Attorney-General are:

1. For what action or inaction was Mr Randall Ashbourne reprimanded?

2. Given the Attorney's answer earlier in question time in which he acknowledged that the improper offer of appointments to boards constitutes a serious criminal offence, how can the government justify a limp-wristed reprimand in respect of such allegations?

3. If Mr Ashbourne did not make an offer of government appointments, why was he reprimanded at all?

The Hon. P. HOLLOWAY (Attorney-General): The report by the CEO of the Premier's Department, Mr McCann, concluded that there were no reasonable grounds for believing that Mr Ashbourne had breached the code of conduct for South Australian public sector employees. That was the conclusion of his report. Nonetheless, Mr Ashbourne was reprimanded and received a warning about future conduct. As these matters are the subject of a police investigation which is still current— *Members interjecting:*

The Hon. P. HOLLOWAY: You laugh, but they are subject to a police investigation which is still current—it would be inappropriate to discuss Mr Ashbourne's conduct and therefore the basis of the reprimand.

The Hon. A.J. REDFORD: I wish to make a brief explanation before asking the Attorney-General a question about the Rann government's corruption allegations inquiry.

Leave granted.

The Hon. A.J. REDFORD: In the press conference on Monday 30 June, the former attorney-general, Michael Atkinson, stated, 'Secondly, I didn't offer my resignation to the Premier last November.' The former attorney-general is quite specific in his denial that he did not offer his resignation to the Premier last November. There is no mention made in that statement of a denial to ministerial staffers or other government ministers. In the light of that, my questions are:

1. Has the Attorney-General been advised that the former attorney-general, Michael Atkinson, did, in fact, late last year indicate his willingness to resign to any Rann government minister or ministerial staffer over the issues which are now the subject of the Police Anti-Corruption Branch inquiry?

2. Was the former attorney's resignation discussed, in the Attorney's presence, with anyone other than the Premier, including either the minister's—or any other ministerial—staff prior to Christmas last year?

The Hon. P. HOLLOWAY: I certainly was not involved in any discussions that took place between the former attorney-general and the Premier and Deputy Premier in relation to these matters, so I am not in any position to comment on those things.

The Hon. R.I. Lucas: Have you been given any advice?

The Hon. P. HOLLOWAY: No, I have not been given any advice.

The Hon. A.J. REDFORD: As a supplementary question, will the Attorney make inquiries and bring back an answer, as is normally the case in this place?

The Hon. P. HOLLOWAY: It is my understanding that the former attorney-general was asked this question in parliament several weeks ago, and he provided an answer.

The Hon. A.J. REDFORD: No, he wasn't. As a further supplementary question, will the Attorney make his own inquiries and come back to this place with his own answers in relation to this particular question?

The Hon. P. HOLLOWAY: The former attorney-general has made his statement on the matter, and I believe that is the end of it. The matters that have been discussed in question time today are the subject of an inquiry by South Australia Police, and I do not wish to make any further comment in relation to those matters. As to what the former attorney may or may not have done, he is answerable for that. I believe that he has already given his answer, and I do not intend to make any further comment on it.

The Hon. A.J. REDFORD: As a further supplementary question, is the Attorney now ruling out making any inquiry in relation to the questions I have just put?

The Hon. P. HOLLOWAY: I do not see any need to pursue the question asked by the Hon. Angus Redford. The matter has been addressed by the former attorney-general.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Gilfillan has the call.

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question in relation to the further inquiry into the corruption allegations.

Leave granted.

The Hon. IAN GILFILLAN: The Premier, on his return, has made great mileage on the issue of instituting a further independent and substantial inquiry. However, the details of that particular sensational inquiry are very thin in relation to the information provided to the public and to this parliament. Will the Attorney provide the council with as much information as he knows of the intended fresh independent inquiry, and will he indicate whether he as Attorney-General has been involved in formulating the terms of reference, and the person or persons who may be involved with and presiding on that inquiry? If the Attorney-General is, at this stage, unable to provide that information, will he give an undertaking to provide it to the council as soon as it is available to him?

The Hon. P. HOLLOWAY: I thank the honourable member for his sensible question.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, talking about talking to Ralph Clarke, I believe that the honourable member had lunch with him at the Penang late last week, so maybe the—

Members interjecting:

The Hon. P. HOLLOWAY: So, you're all having lunch. It is amazing: everyone is having lunch!

The Hon. R.I. LUCAS: I rise on a point of order, Mr President. That is an outrageous allegation, and I demand that the Leader of the Government withdraw. In fact, the Hon. Mr Xenophon—

The PRESIDENT: Order! There is no point of order.

The Hon. P. HOLLOWAY: If that is the case, I will apologise to the leader. The question asked by the Hon. Ian Gilfillan is important. The detail of the form of the new inquiry announced by the Premier has not yet been determined. Certainly, it will be an independent review by a suitably qualified and experienced person, but consideration has not yet been given to any particular person. The terms of reference will be formulated following the completion of the police investigation—it would be totally inappropriate to do otherwise. To formulate the terms of reference at an earlier time may be seen to be pre-emptive of any findings of the police; and, furthermore, to determine the terms of reference now may result in incomplete or inappropriate terms of reference. So, as soon as the police inquiry has been completed—which we all hope will be as soon as possible—consideration will be given to the further inquiry announced by the Premier.

The Hon. IAN GILFILLAN: I ask a supplementary question. What involvement will the Attorney have personally in the proceedings: in both drawing up the terms of reference and the selection of the presiding officer? If he will not have a role, does he not believe that as the Attorney-General he has (and should have) a leading role in both of those matters?

The Hon. P. HOLLOWAY: Obviously, I will discuss the matter further with the Premier but, as I have just indicated, it is premature at this stage to talk about the review until the police inquiry has been completed. I will discuss that matter at the appropriate time with the Premier.

The Hon. R.D. LAWSON: I ask a further supplementary question. Will the Attorney-General assure the council that the person appointed to undertake this independent review will be given the same powers as (or at least powers equivalent to) those given to Mr Dean Clayton QC when he conducted the inquiry into the Motorola issue?

The Hon. P. HOLLOWAY: The powers of the independent person who undertakes the inquiry will be sufficient to meet the terms of reference. For the reasons I have just indicated, we have not yet determined the terms of reference; that will need to wait until the current police investigation has been completed. Until we are in that position and can draft those terms of reference, it would be inappropriate to say exactly what those powers will be. However, I can say that the government will do everything it can to ensure that the independent person has the power effectively to inquire into the issues that will be before it.

The Hon. A.J. REDFORD: I ask a further supplementary question. Will the government undertake not to pay any legal fees of any of the parties involved as occurred in respect of the previous inquiry into the Hindmarsh Soccer Stadium?

The Hon. P. HOLLOWAY: That is a hypothetical question to which I will need to give consideration.

REPLIES TO QUESTIONS

BODY ORGANS AND TISSUES

In reply to **Hon. A.L. EVANS** (15 May).

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

A number of claims for compensation have been lodged by family members in relation to retained tissues and organs of deceased relatives. Proceedings are currently before the courts in relation to this issue and it would be inappropriate to comment on the likely outcome of those claims.

RIVERLAND, SURGEONS

In reply to **Hon. D.W. RIDGWAY** (30 April).

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

1. Yes, the Minister for Health is aware of the situation.

2. The Minister for Health became aware of the situation in correspondence dated 4 October 2002 received from the Chairman, Board of Directors, Riverland Regional Health Service Inc.

3. The correspondence from the Chairman, Riverland Regional Health Service Inc., advised that resident specialists in the Riverland believed that they have been disadvantaged in relation to medical indemnity. As a result, the specialists chose to provide on-call services over three weekends a month, rather than four.

The Minister for Health met with resident specialists on 25 November 2002 as part of the community cabinet meeting and correspondence has advised that, whilst no change could be made to the 2002-03 indemnity package, the Department of Human Services would be working on alternative proposals for 2003-04. This work is continuing at present.

The regional general manager, Riverland, advises that efforts to bring visiting specialists to cover the fourth weekend have not been successful, however, both the Department of Human Services and the Riverland Regional Health Service continue to be proactive in the recruitment, retention and support of medical practitioners.

MULTICULTURAL GRANTS SCHEME

In reply to **Hon. J.F. STEFANI** (30 April).

The Hon. T.G. ROBERTS: The Minister for Multicultural Affairs has received this advice:

Under the previous Liberal Government the Multicultural Grants Scheme was administered by the Office of Multicultural Affairs, previously known as the Division of Multicultural Affairs on behalf of the Premier. The grants scheme was not administered by South Australian Multicultural and Ethnic Affairs Commission, which was known as the South Australian Ethnic Affairs Commission until 1989.

The South Australian government has now more than doubled the funds allocated to this scheme, making a total of $150 000 available to South Australia's diverse multicultural communities. This is the first real increase to this scheme in more than seven years.

Under the Liberal Government grants were also provided, for example, to the Multicultural Communities Council of South Australia, in addition to the Multicultural Grants Scheme. The Government has continued and strengthened this practise.

The South Australian Government has increased the principal grant to the Multicultural Communities Council from $70 000 to $100 000. In addition, the Government has provided $75 000 towards the cost of the refurbishment of the ground floor meeting area of the Multicultural Communities Council premises.

The South Australian Government has continued to fund other organisations including the Centre for Intercultural Studies and Multicultural Education (CISME) and Ethnic Broadcasters Inc. (EBI).

In addition, multicultural communities are supported through the Community Benefits SA Grants Scheme and by the Premier's Community Grants.

The Government has strengthened support of our diverse multicultural communities through increases to these targeted grants programs.

DIRECTOR OF PUBLIC PROSECUTIONS, STAFF

In reply to **Hon. R.D. LAWSON** (29 April).

The Hon. T.G. ROBERTS: The Attorney-General has received this advice:

1. Does the Attorney acknowledge that there is a serious level of under-staffing in the Office of the Director of Public Prosecutions?

I do not agree that there is a serious level of understaffing in the Office of the Director of Public Prosecutions (DPP).

The DPP had not been adequately resourced by the previous Liberal Government to cope with the increase in cases arising from the creation of a serious criminal trespass offence, as detailed in point 6.

This Government increased funding in its first budget to the DPP in real terms as detailed in point 2.

The Office of the Director of Public Prosecutions could make valuable use of more resources, were the Government's budgetary situation to allow such resources to be deployed.

2. Has any additional funding been allocated to the Office of Director of Public Prosecutions since 1 July 2002 and, if so, what is it?

Additional funding of $275 000 has been allocated to the Office of the Director of Public Prosecutions since 1 July, 2002.

3. Will the Attorney confirm that nine officers have left the office in the past year and six have been appointed, thereby leading to a diminution in staff numbers of three?

The Director has advised that eight legal officers who occupied 5.7 full-time equivalent positions have left the Office in the past year (since May, 2002) and that eight legal officers, occupying 7.4 full-time equivalent positions, have been appointed. Rather than a diminution in staff numbers of three, the Office has increased by 1.7 full-time equivalent legal positions.

4. What number of staff, expressed in full-time equivalents, have been appointed to the Office of Public Prosecutions since 1 July 2002?

The Director has advised that eight legal officers occupying 7.4 full-time equivalent positions have been appointed to positions in the DPP since 1 July, 2002.

5. What number of staff—again, expressed in full-time equivalents—have left the office over the same period?

The Director has advised that as of 1 July, 2002, a total of seven legal staff occupying 5.2 full-time equivalent positions have left the office.

6. What was the backlog of cases to which the Attorney referred in his answers in estimates as at 30 June 2002?

The backlog of cases referred to is simply that the DPP has had a large increase in the matters received since the introduction of the serious criminal trespass legislation. The total number of committal matters received in the 1998-1999 financial year totalled 1176, and this increased to 1268 in 1999-2000, and 1654 in 2000-01, and 1696 in 2001-02. This means that as of 30 June, 2002, the number of committal matters received by the DPP was the largest yet at 1696. These comprised 486 serious criminal trespass offences, 487 drug related offences and 144 sex offences. There has also been a corresponding increase in arraignment files received in the office. In the 1998-99 financial year 868 matters were received, and this increased to 884 in 1999-2000, and 975 in 2000-01, and 1206 in 2001-02. This again means that the number of arraignment files received as of 30 June, 2002, was the largest yet at 1206.

7. What was the backlog of such cases as at 31 December 2002 for which figures are available?

The Director has advised that as at 31 December, 2002, the number of committal matters received totalled 722 and the number of arraignment files received totalled 529.

CORRECTIONAL SERVICES, CELL DESIGN

In reply to **Hon. IAN GILFILLAN** (28 April).

The Hon. T.G. ROBERTS: I advise that:

1. Is the Minister aware of the Victorian study mentioned by the Coroner?

Yes, I am aware of the Victorian study. The Victorian Department of Justice study, Building Design Review Project, was a very comprehensive undertaking and is now being adapted by most Australian correctional jurisdictions as the basis for safe prison cell design. Two officers from the South Australian Department for Correctional Services contributed to the study by attending and contributing to a workshop in Melbourne as part of this project.

2. Has he instituted the review as recommended by the Coroner? If not, why not?

Since 1998, the Department for Correctional Services has spent $112 000 reducing obvious ligature points in existing cells, and $560 000 has been allocated over the next 3 years to eliminate hanging points. All new prison accommodation takes into account these safer design aspects.

3. What immediate action was taken to safeguard inmates, such as in E Division in Yatala?

In 1999 Yatala was refitted with a new cell intercom system to provide prisoners with the opportunity to talk to staff in time of need. Additionally, following lockdown and the official count of prisoners where all prisoners must be physically sighted, 'Patrol Officers' must carry out a patrol within each two-hour period of the shift. All prisoners must be sighted, checking for any obvious signs of distress.

Journal entries must include details of each patrol and the time of each patrol must not be predictable.

NATIVE TITLE

In reply to **Hon. R.D. LAWSON** (1 April).

The Hon. T.G. ROBERTS: The Attorney-General has provided the following advice:

The state was represented in the two Dieri Mitha/Edward Landers strikeout applications. The State supported each of the strikeout applications for the reason that the Native Title Act did not allow the two groups to bring competing claims and that they should combine to bring a single claim for the area.

The applications were about conflicts as to who was authorised to speak for the Dieri people and what had occurred at meetings held to authorise each claim. Substantial expert reports were prepared dealing with the composition of the two claim groups. The State's expert reviewed those reports and provided reports on the authorisation processes adopted by each group. One of the groups had lost its legal representation immediately before the hearing and the State was therefore required to assist the Court to a greater extent than normally would be so.

It is difficult to provide an estimate of the total cost of the State's representation in the Dieri Mitha/Edward Landers strikeout applications. This is because the strikeout applications did not occur in a vacuum and work continued to be done on other aspects of these claims and on other claims within the State (including the overlapping claims). The applications ran for a total of three days in Court but preparation for them took place over nine months commencing in June, 2002. Lawyers who were working for the Government on these claims did other things during the nine months.

The approximate cost was $190 400 including time of officers of the Crown Solicitor, counsel fees, and the fees of an anthropological expert. The in-house costs have been calculated on the rate usually applicable to government departments although the Attorney General is not charged for those services.

These costs need to be compared to the potential cost of dealing with a very large contested native title trial over a geographic area of more than 120 000 sq. kms with nine overlapping claimant groups. The size of the Dieri Mitha claim area and the large number of overlapping or conflicting claims hindered any attempts to explore negotiated outcomes in the north-east of the State.

Justice Mansfield essentially supported the State's case that both applications were flawed and his judgment provides important guidance on the composition and authorisation of native title claim group. This means that the two opposing claimant groups need to meet to formulate and agree upon a joint approach if they wish to seek a determination of native title. It is hoped that they will now be able to do that so that the resolution of native title issues throughout the State by negotiation and agreement can continue.

REGIONAL COORDINATION

In reply to **Hon. J.S.L. DAWKINS** (27 March).

The Hon. T.G. ROBERTS: The Premier has provided the following information:

1. Following approval by Cabinet in July last year of a Framework for Facilitating Improved Regional Coordination six Regional Facilitation Groups have been established with the support of the Office for the Commissioner for Public Employment. Nominations for membership of the respective Regional Facilitation Groups were sought from each Portfolio Chief Executive. The resultant groups are meeting on a regular basis. A chairperson acting on a twelve month rotational basis for each Regional Facilitation Group has been selected by group members. Current membership across the groups includes representatives from:

- Dept for Administrative and Information Services
- Dept for Correctional Services
- Dept of Education and Children's Services
- Dept for Environment and Heritage
- Dept of Further Education, Employment, Science and Technology
- Dept of Human Services
- Dept for Water, Land & Biodiversity Conservation
- Dept of Primary Industries and Resources
- South Australian Ambulance Service
- South Australian Housing Trust
- South Australian Police
- SA WATER
- Transport SA

2. The six regions are:- Eyre, Mid-North, Murraylands, Riverland, Spencer and South East. The regions are based on the location of key district offices from which service delivery is managed or where significant numbers of government employees are stationed.

3. As at 29 April 2003 the number of meetings held so far are:

Eyre	3
Mid North	2
Murraylands	2
Riverland	2
Spencer	2
South East	2

4. The Regional Facilitation Groups have an across public service agency focus. Their terms of reference include:

- Improving the efficiency of service delivery
- Optimising resource allocation
- Reducing replication/overlap
- Effective Training and Development

The accountability for government service delivery still rests with the relevant agency and responsibility for the broader issue of economic or strategic development of a region remains unchanged. The Regional Facilitation Groups have a complementary role to facilitate and encourage SA public sector agency cooperation and communication at a regional level.

GAMBLING

In reply to **Hon. NICK XENOPHON** (27 March).

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

1. A response to this question was provided on 17 July last year. I refer the honourable member to *Hansard* for further details.

2. A response to this question was provided on 17 July last year. I refer the honourable member to *Hansard* for further details.

3. A response to this question was provided on 8 July last year. I refer the honourable member to *Hansard* for further details.

PRISONS, DRUG USE

In reply to **Hon. A.L. EVANS** (4 December).

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

1. *Will the minister confirm and explain the situation regarding the 'soft on drugs' management policy in the women's prison at Northfield?*

The Government does not have a policy of being soft on drugs in prisons.

2. *Will the minister advise the number of officers directly working with inmates in our states prisons and the range of strategies in place to increase staffing numbers in our state prisons to meet any shortfall?*

The Department currently has a total of 582 officers directly working with inmates, and estimates that it will need to recruit another 46 new officers during 2003 as part of the normal recruitment plan.

Further staged recruitment intakes of new staff are scheduled for July and October to cover new additional staffing approvals and vacancies resulting from attrition as they arise across the system.

3. Will the minister advise on current management practices specifically aimed at reducing the level of drugs in each of our state prisons?

Other major management practices specifically aimed at reducing the level of drugs in our prisons include:

- an active program of cell searching.
- arguably the most successful initiative that the Department has introduced to reduce the level of drugs in prison has been the Intelligence and Investigations Unit (IIU). This Unit has been established under national "Tough on Drugs" funding and conducts a range of intelligence operations, many in conjunction with SAPOL. In 2001-02, 385 visitors were banned as a result of IIU operations. Most of those banned resulted from intercepted attempts to introduce drugs into the State's prisons. The Department is aware from intelligence intercepts that it has become more difficult to introduce illicit drugs into the prisons.
- The use of drug dogs to detect drugs in prisons and those attempting to introduce drugs during visits. The Department's

2001-02 Annual Report noted that during 2001-02 the Dog Squad carried out 3397 drug searches in 458 areas.

- The use of urinalysis to identify prisoners using drugs.
- To complement the "drug supply" initiatives described above, the Department addresses "drug demand" issues by providing a range of drug and alcohol programs for both prisoners and offenders. Further, the Department of Human Services prison health services staff provide a Methadone Maintenance Program and other pharmocotherapies.

LABOR PARTY RAFFLE

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

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

1. No.

2 & 3. I have referred this matter to the relevant authority, the Commissioner of State Taxation, for appropriate consideration and action.

MATERNITY SERVICES

In reply to **Hon. SANDRA KANCK** (1 May).

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

1. Public midwifery services for women in the Adelaide Hills area are provided by the Mount Barker Hospital as the local unit, the Women's and Children's Hospital and Flinders Medical Centre. In addition, private midwifery services are provided by Flinders Private Hospital, Burnside and Ashford.

The Mount Barker Hospital's Midwifery facilities comprise two delivery suites and six post-natal rooms. The old Nursery was converted to a new delivery suite approximately two years ago.

There have been very few transfers of women booked into Mount Barker for births to the Adelaide hospitals due to pressure on the facility, or due to shorter lengths of stay combined with the community midwifery service. The current services are considered adequate at this time.

2. It is very important for women to be able to access maternity services within their own community should they choose to, and Mount Barker Hospital is providing level 1 and 2 obstetric services to over 350 women a year. That number is restricted by the capacity of the accredited GP/Obstetricians and Specialist Obstetrician to provide the service. The Hospital is keen to expand the services provided by midwives, which would increase the choice for local women.

3. With the significant increase in population over the past few years, and the expectation of a continued increase, the demand on Mount Barker's facility may well increase.

Current levels of maternity services can be maintained within the budget and staffing levels. There is not a shortage of midwives in the Hills area and unless there is a sudden influx of women to deliver, the hospital is able to manage.

4. Any commitment to change must encompass a whole of midwifery approach, including antenatal, birthing and post-natal care, the type of facility needed and the provision and support of both general practitioners and midwives who provide the care.

Discussions have been held between the hospital and the Department of Human Services in relation to this facility, but the broader issues need to be taken into consideration before there is any commitment to significant expenditure of capital funds.

CITY OF ADELAIDE WARDS

In reply to **Hon. DIANA LAIDLAW** (1 May).

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

The City of Adelaide Act 1998 sets out that the current composition for the City of Adelaide is to remain in place until at least December 2005. Should the Council undertake a review of its composition in accordance with section 12 of the Local Government Act 1999 before that date, and present a report on such a review and a recommendation to the Government that the composition should change, then the Government would consider the matter at that time and whether legislation is warranted to change arrangements before December 2005.

LOITERING

In reply to **Hon. IAN GILFILLAN** (1 May).

The Hon. T.G. ROBERTS: The Attorney-General has received this advice:

Any property owner can request a person to leave his property. Persons who do not leave when requested become trespassers, committing an offence against section 17A of the *Summary Offences Act*. It is common to see signs warning that "trespassers will be prosecuted" because this is the means that our law provides to permit property owners and occupiers to control who comes onto and can remain on their land.

As the honourable member noted in his explanation, section 18 of the *Summary Offences Act* does not create an offence of loitering. Rather it grants a power to a police officer, in certain defined circumstances, to request a person to cease loitering or a group to disperse. It is only if the person or group fails to carry out the police officer's request that offences may be committed against section 18(2).

Any prosecution for an offence against section 18(2) would require a police officer to give evidence that he or she had made a request under section 18(1).

Although section 18 applies to a "public place" this is a term that is defined in section 4 of the *Summary Offences Act* to include privately-owned places where "fee access is permitted to the public, with the express or tacit consent of the owner or occupier of that place".

Therefore, in a public place, such as a cinema forecourt, any notice that purported to warn that "loiterers will be prosecuted" would be incorrect. It would be more appropriate for such a sign to warn that management reserves the right to ask individuals to leave, and that those who fail to leave when requested may be prosecuted for trespass.

Although signs warning that "loiterers will be prosecuted" are incorrect, it is not an offence to display such a sign. It is not the role of the Attorney-General to advise individual property owners about the wording of any warning signs they choose to erect.

HOSPITAL FUNDING

In reply to **Hon. J.F. STEFANI** (13 May).

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

1. I agree that locally based, readily accessible community health services are advantageous to the community.

In South Australia there are many health services provided in the community. Although these are not uniformly spread throughout the State and are not able to meet all of the demands of local communities, the services are targeted for greatest effect to those people with complex needs and poorest health.

The value of community based services in keeping people out of hospital, promoting good health and providing home-based care was identified by the Generational Health Review team in public consultations and research evidence.

An example of complementary hospital and community-based services occurs in planning for hospital discharge. This is particularly evident in rural and remote areas of the State, where close partnerships are well established. The integration of community and hospital services means that patients can leave hospital as soon as possible and receive follow-up care within their homes. This is of benefit to the health system overall and individuals. Whereas it costs an average of $450 per day to keep a person in hospital (based on the casemix benchmark), innovative community services are less expensive and result in better health outcomes for most people.

2. The Government is currently examining the Generational Health Review's recommendations regarding community-based health services.

RESTORATIVE JUSTICE

In reply to **Hon. IAN GILFILLAN** (14 May).

The Hon. T.G. ROBERTS: The Attorney-General has advised that:

Restorative justice principles can be applied to different stages of the judicial process, including diversion from court prosecution, actions taken in parallel with court decisions, and meetings between victims and offenders during arrest, pre-sentencing, and prison release.

Restorative justice may also be used in a range of civil matters, including family welfare and child protection, and disputes in schools and workplace settings.

South Australia is a recognised leader in restorative justice initiatives. We were the first to establish a separate juvenile court in the late 1890s that embraced a welfare approach to the treatment of young offenders and, more recently, South Australia pioneered the Aboriginal or "Nunga" Courts, which the Honourable Member referred to in his question. Nunga Courts are operating at Port Adelaide, Murray Bridge and Port Augusta. Honourable members may have seen the Courts Administration Authority's recent announcement that from July 2003, Port Augusta will soon be the first Australian town to run an Aboriginal Youth Court for young indigenous offenders.

We were also the first State to introduce Family Conferencing in the Youth Court, bringing victim and offender face to face to reach a negotiated outcome. All other Australian jurisdictions have since followed our lead.

The Labor Government is currently exploring initiatives that are consistent with the desire to see greater victim and community participation in the justice system. For example, the Justice Portfolio is developing papers on a number of diversionary options for adults on the principles of restorative justice.

Some of these new ways of dealing with offenders have been identified in a new strategic plan for Aboriginal people currently being prepared by the Justice Department, with contributions from other agencies. In particular, the Department is exploring the value of extending the current Family Conference program to some adult offenders. In due course, the matter will be considered by the Justice Cabinet Committee.

Of course, restorative justice is not a panacea that will cure the world of crime and criminals. This Government will carefully scrutinise any initiative that deals with serious offences in a restorative fashion.

LOCAL GOVERNMENT ELECTIONS

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

The Hon. T.G. ROBERTS: The Attorney-General has received this advice from the State Electoral Commissioner:

1. The Electoral Commissioner considers that the provision of free food could, in certain circumstances, amount to a breach of Section 57 of the Local Government (Elections) Act, 1999.

2. The Electoral Commissioner is not aware of claims that he will not be taking any action in relation to Mr Barca's sausage sizzles.

3. The Electoral Commissioner will consult with specialist legal advisers from the Crown Solicitor's Office about the allegations of breaches of the Local Government (Elections) Act, 1999, and relevant matters will be taken to the Magistrates Court.

HOUSING, MENTALLY ILL

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

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

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

Supporting people in the community through the delivery of integrated clinical, housing and disability support services in partnership with non-government agencies is critical to the Mental Health reform agenda.

Following the evaluation of the Supported Housing in the North demonstration project in Salisbury, agencies are currently planning to extend the supported housing initiative. Three further demonstration projects have been implemented with support services being provided by the contracted non-government organisation, Port Adelaide Central Mission. These projects, which commenced 1 July 2002, are located in:

- Whyalla—6-8 youth/young adults at risk of long term mental illness
- South East—6-8 adults
- Noarlunga—8-10 adults

Construction of the 15 bed Support Residential Facility (SRF) and 6x2 bedroom independent units at Victor Harbor will be completed by July 2003. Non-government organisations have been contracted to provide support for independence (Home Care Services) and to manage the housing and provide tenancy services (Housing Spectrum). Assessment of referrals and the provision of transition support to those accepted have begun.

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

Funding has been allocated to establish supported accommodation services in the following country regions:

- Hills Mallee Southern
- Riverland
- South East
- Northern & Far Western
- Eyre
- Mid North
- Wakefield
- Gawler

A tendering process is underway in the Eyre, Mid-North and Wakefield/Gawler regions, to contract for a disability support provider to work with the South Australian Housing Trust and Mental Health Services to provide supported accommodation in these regions. An Aboriginal specific service is to be established in the Riverland. The tendering process is currently under way.

Further work is occurring in the metropolitan area with a supported accommodation initiative, targeting Port Adelaide and environs, being established. The Eastern Community Mental Health Service is developing a proposal for a supported accommodation service, which will provide support to the inner city and eastern metropolitan region.

Funding has also been allocated for a supported accommodation initiative for 8-10 children under the Guardianship of the Minister. These children have complex needs, which include mental health problems. This project is currently in the planning stage and will be implemented in the south-west metropolitan area.

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

A supported housing initiative has been established in the south-east region, which incorporates Mount Gambier. People with a mental illness who want to return home to the Mount Gambier region following discharge from psychiatric care in Adelaide have priority in terms of their eligibility to access this program.

HEAVY VEHICLES

In reply to **Hon. R.I. LUCAS** (previously Hon. Diana Laidlaw) (13 May).

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

The South Australia Police and Transport SA have an agreed policing strategy to measure and enforce compliance with the Australian Road Rules within the heavy vehicle transport industry.

One operation is Operation Harvest, which is conducted in partnership with Transport SA as a dual phase campaign consisting of an educational and an enforcement phase during the grain harvest period each year.

The enforcement phase is preceded by an education phase which involves a media campaign in both metropolitan and rural newspapers, promotion through the Farmers Federation of SA and on talkback radio, promoting driver and vehicle safety.

During the enforcement phase police enforce legislation relative to heavy vehicles. The aim is to maximise the number of vehicles checked and take action relative to any offences detected. The aim of these initiatives is to make South Australian roads safer by reducing road trauma and increasing driver awareness.

NATIONAL LIVESTOCK IDENTIFICATION SCHEME

In reply to **Hon. CAROLINE SCHAEFER** (12 May).

The Hon. P. HOLLOWAY: I provide the following information:

Further details were provided about the National Livestock Identification Scheme (NLIS) to the honourable member in answer to a question on 3 June 2003. As part of this year's state budget, $6.1 million is being provided over four years to accelerate the implementation of the scheme.

ELECTRICITY CHARGES

In reply to **Hon. SANDRA KANCK** (3 April).

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

1. The Estimator is a useful tool and I commend the Essential Services Commission of South Australia (ESCOSA) for implementing this facility.

As I understand it, the Estimator requires the customer to input the various items into the relevant fields based on the customer's past four AGL accounts. These amounts are then compared to an offer which the customer has obtained from AGL or another retailer.

Accordingly, the customer needs to have obtained an offer and have their previous accounts available in order to utilise the facility. The Estimator merely performs the calculations based on the information which the customer has provided. The same calculations can be performed manually, based on the same information.

Members of the public are able to access the Estimator on the ESCOSA website at www.escosa.sa.gov.au. Members of the public without Internet facilities at home can access the ESCOSA website via Internet facilities at their local library or Council.

It should be noted that whilst the Estimator is useful, the comparison of electricity offers is not a simple task as retailers may elect to differentiate their product based on a feature other than price, such as offering a rebate for payment by direct debit. These additional features need to be taken into account when comparing offers. I understand the Estimator is not able to account for such features at this stage. For this reason, customers need to consider any electricity offers they receive as a total package and consider whether they may receive a benefit other than a reduced usage charge.

The ESCOSA has advised it does not have any plans to establish a phone based estimator facility at this stage. As you are aware, the ESCOSA is fully independent and cannot be directed by the Government to set up such a facility. Furthermore, the ESCOSA is primarily funded by licence fees from industry participants and I have been advised that the provision of this additional service would require additional resources.

2. The AGL standing contract prices, as published by the ESCOSA following its price inquiry in October last year, provides for a "summer" and a "winter" tariff. The summer tariff covers the period from 1 January to 31 March 2003 whilst the winter tariff covers the remaining months of the year.

As I have mentioned, by accessing one's previous four electricity bills, a customer is able to gauge the extent of any increase based on their previous year's usage across the "summer" and "winter" periods. Of course, usage can vary from year to year and hence allowances need to be made.

I agree that it is always preferable for a customer to receive an actual meter reading for each billing cycle. The reality, however, is that this is not always possible. For this reason the Electricity Retail Code, as published by the ESCOSA, specifies the particular scenarios under which a retailer is able to bill a customer based on an estimated read. As you correctly point out, the Retail Code also requires the retailer to use best endeavours to ensure a customer's meter is read at least once every 12 months.

Where a bill has been estimated and the meter is subsequently read the retailer must adjust the next bill to take account of the actual reading. Should the resulting bill provide the customer with payment difficulties, the Retail Code requires the retailer to offer an instalment plan should the customer request one.

3. Advice has been sought from AGL regarding the arrangements it has with its meter reader contractors. I am advised that the scheduling of meter reads is done some three days in advance and involves specific meter reading routes.

By way of introduction, pursuant to the Customer Sale Contract with the retailer, the customer is obliged to grant the meter reader safe and convenient access to the meter such that the customer is not required to be at home for the meter read to be undertaken. In recognition of individual circumstances, AGL does, however, have specific arrangements to deal with instances where the meter cannot be accessed. These are as follows:

Step 1: The meter reader arranges for a specific day or half day with the customer.

Step 2: Where this is inconvenient, a two hourly block is specified.

AGL advises that in the majority of cases these arrangements are acceptable. AGL accepts, however, that individual circumstances may preclude a customer from being available for a two hour period.

Step 3: In such circumstances the meter reader is able to make specific arrangements with the customer possibly involving a phone call to the customer immediately prior to the meter reader being available to read the meter at the customer's premises.

I am advised that no after hours appointments are currently arranged as in the large majority of cases the above arrangements are successful.

Should the Government or ESCOSA impose a requirement upon retailers to provide after hours meter reading facilities this would lead to additional costs to retailers which, ultimately, would be passed onto customers. Given the electricity price increases which South Australian consumers have experienced I do not consider such action to be warranted at this time.

Furthermore, given AGL's advice that the majority of customers are able to be accommodated by AGL's current arrangements, it would be unfair to impose an additional cost on all customers to accommodate a small number of customers.

The ESCOSA may elect to impose such a requirement upon retailers should it see fit.

ELECTRICITY SUPPLY, RETIREMENT VILLAGES

In reply to **Hon. IAN GILFILLAN** (26 March).

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

1. From 1 January 2003, AGL SA included a service charge on all meters for customers on a combination of domestic and business or farm tariffs. Without having extra information regarding the specific situation of the retirement village in question, it is not possible to assess the impact of the multiple meter issue on the retirement village.

The extent to which the multiple meter issue affects retirement villages depends largely on the arrangements in place prior to the advent of full retail competition on 1 January 2003. If each resident previously received a bill directly from AGL SA, then each resident should have been charged the quarterly supply charge of $31.053 or $37.312 if they have off-peak hot water.

These supply charges are the standing offer supply charges approved by the Essential Services Commission of South Australia (ESCOSA). The quarterly supply charges increased by $6.21 and $9.86 respectively as of 1 January 2003.

If, prior to 1 January 2003, the residents were receiving their supply through an inset network owned by the retirement village, an arrangement known as reselling, the ESCOSA has determined that the maximum price able to be charged to small customers is AGL SA's standing offer prices, as set out above.

The quoted supply charge of $67.34 per quarter is the charge approved by the ESCOSA for particular tariffs for small business customers and should not apply to residential customers. Potentially, there may be some confusion in the AGL SA billing system as to the status of the type of meters in the village and it would be worthwhile for the retirement village in question to contact AGL SA on 131 245 to ensure that the retirement village and its residents are being correctly charged. If not satisfied with AGL SA's response, the Electricity Industry Ombudsman provides customers with a free dispute resolution service and can be contacted on 1800 665 565 while the ESCOSA can be contacted on 1800 633 592.

The Minister for Energy is willing to arrange for the retirement village's situation to be fully investigated if the Honourable Member could provide him with more details privately.

2. The Minister for Energy became aware of the magnitude of the problem of multiple supply charges on 9 January 2003 and called an urgent meeting with AGL, ETSA Utilities and the head of the ESCOSA, Mr Lew Owens, to see if the new charge could be reduced or removed. This meeting was held on Friday 10 January 2003.

The Minister for Energy was able to convince AGL and ETSA Utilities to put a six month cap on this new charge to give farmers and other industries the chance to review their power needs. While they will be charged a reduced fee for their first two additional meters, they will not have to pay for subsequent meters.

The ESCOSA has since undertaken a review into this situation which included calling for public submissions. It released its Draft Decision on 22 May 2003 and will release its Final Decision on 13 June 2003.

The Minister for Energy advises that the arrangements to be imposed on ETSA Utilities as a result of the ESCOSA's Final Decision are likely to be of relevance to those on farm and business tariffs and are unlikely to affect the residents of retirement villages.

3. As I previously noted, it is not possible to make definitive statements on what billing arrangements should be in place for this

particular retirement village. If more details could be provided privately, the Minister for Energy will investigate this situation fully.

GENETICALLY MODIFIED FOOD

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

The Hon. P. HOLLOWAY: The Attorney-General has provided the following information:

Whether a guarantee is required for any aspect of a consignment of goods for export is a matter of the particular contract and law. The contract between the exporter and the purchaser may contain any terms they see fit. In some cases, the law of the exporting or the importing country may require certain things on one or both parties, such as a declaration by the seller of the goods that a consignment of grain is free of genetically modified grain. The contract could also contain such a requirement.

If the consignment were contaminated, the seller would not then be fulfilling his or her contractual obligations. In Australia, the seller would be liable to the purchaser for breach of contract. No-one else would be liable under the contract. However, it is possible that the seller would have legal recourse against a third party, if that third party had been responsible for the contamination of the consignment causing the seller's inability to sell it. That would depend entirely on the circumstances.

BARLEY MARKETING REVIEW

In reply to **Hon. CAROLINE SCHAEFER** (29 May).

The Hon. P. HOLLOWAY:

1. PIRSA received a proposal from the Crown Solicitors' office to assist the independent panel charged by Cabinet with the review of the Barley Marketing Act. The Crown Solicitors office subsequently prepared a number of draft scoping documents for the conduct of the review which were considered to be outside of the scope of the terms of reference and were not proceeded with.

2. The Minister met with the Chairman of the Review Panel and Departmental officers on 21 January to clarify the procedures to be followed by the review panel to meet the Terms of Reference agreed to by Cabinet. It was never intended to conduct a full competition policy review given the extensive review undertaken in 1997.

It was made clear to the Chairman of the review panel that the key objective was to establish whether there were any net public benefits arising from the Act. The review panel was asked to consult with key industry stakeholders through the data collection process, analysis of key issues and in debate on the findings. Two meetings were held with each key stakeholder who provided a submission.

The review panel critically examined the Econtech report and the model was evaluated from a quantitative point of view by Professor McCaulay of Sydney University.

The Crown Solicitors Office was consulted by PIRSA on the review process and was requested to provide legal advice directly to the review panel if required.

Executive officer support to the panel was provided by a PIRSA officer.

3. No. The terms of reference were signed off by Cabinet. The review process was presented to the National Competition Council (NCC) and agreed to. The review panel met with the NCC recently and strongly defended their review process methodology. The NCC was basically in agreement with the explanation but would wait on the final report before making a final judgment on the full process.

RIO TINTO AUSTRALIAN SCIENCE OLYMPIADS

In reply to **Hon. A.J. REDFORD** (29 May).

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

The minister would like to extend her appreciation to Rio Tinto for its support of science education and congratulate all students who participated in the Rio Tinto Australia Science Olympiad. The Rio Tinto Company organises and funds the Rio Tinto Australian Science Olympiad across Australia. Schools and teachers play an active role in the Olympiad with their support of students participating in projects as part of the program.

Rio Tinto arranges the judging of the projects undertaken by the students participating in the Science Olympiad.

POLICE VEHICLES, SPEED CAMERA INFRINGEMENTS

In reply to **Hon. T.G. CAMERON** (28 May).

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

South Australia police are subject to similar processes to those which cover Victorian police. These processes arise from the Australian Road Rules which at Rule 305 state:

(1) A provision of the Australian Road Rules does not apply to the driver of a police vehicle if:

(a) in the circumstances:

(i) the driver is taking reasonable care; and

(ii) it is reasonable that the provision should not apply; and

(b) if the vehicle is a motor vehicle that is moving, the vehicle is displaying a blue or red flashing light or sounding an alarm.

(2) Sub rule (1)(b) does not apply to the driver if, in the circumstances, it is reasonable:

(a) not to display the light or sound the alarm; or

(b) for the vehicle not to be fitted or equipped with a blue or red flashing light or an alarm.

Traffic Infringement Notices are sent direct to the area at which the vehicle detected is located. The officer responsible for the vehicle at the time of detection is then determined and the circumstances applying at the time that the infringement occurred examined.

Where it is appropriate to seek exemption under the Australian Road Rule 305 (as above), the matter is referred to SAPOL's Professional Conduct Branch for assessment.

During 2002, the Professional Conduct Branch examined 505 Traffic Infringement Notices that had been issued to police in relation to speed camera offences.

Nine of the Traffic Infringement Notices issued were assessed by the Professional Conduct Branch as not being exempt under the Australian Road Rule 305.

No SAPOL member was suspended for breach of a Traffic Infringement Notice.

CABINET RESHUFFLE

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

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

The Independent Gambling Authority has responsibility for licensed gambling providers in South Australia, both with respect to the integrity of gambling products and with respect to their impact on the community. The Authority has recently completed an inquiry into:

- Identifying and examining a broad range of issues which relate to the advertising and responsible gambling codes to apply under the State Lotteries Act
- Providing an opportunity for stakeholders to comment on whether, and the extent to which, the codes for lotteries should depart from the codes of practice approved in May 2002 under the *Casino Act 1997*
- Allowing the Lotteries Commission an opportunity to respond, in public, to the public submissions
- Testing the claims made in public explanations or public submissions.

It received, in public, submissions or explanations from members of the public, including groups with a special interest in the minimisation of harm associated with gaming or in responsible gambling.

The inquiry was conducted with a view to subsequently approving the codes of practice for the purposes of sections 13B and 13C of the State Lotteries Act.

While the Independent Gambling Authority is an independent body, it falls within the responsibility of the Minister for Gambling, the Hon Jay Weatherill MP. If responsibility for the Lotteries Commission was given to the Minister for Gambling, then there could have been the potential for a significant conflict of interest; however, it was not.

MEMBERS' REMARKS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.I. LUCAS: Amidst all the frivolity about who was lunching with whom recently and the outing of our friend and colleague the Hon. Mr Xenophon, for the sake of complete accuracy I indicate that it is true that the Hon. Mr Xenophon was having lunch with the former member for Enfield (Mr Clarke), and it is certainly true that my colleague and I (who were dining at that particular restaurant) did not have lunch with Mr Clarke. However, it is also true that, as he left the restaurant, he shared some cordial discussion on issues unrelated to this particular matter, but he did not partake of lunch with me and my colleague.

STATUTES AMENDMENT (NUCLEAR WASTE) BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation) obtained leave and introduced a bill for an act to amend the Dangerous Substances Act 1979 and the Nuclear Waste Storage Facility (Prohibition) Act 2000. Read a first time.

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

That this bill be now read a second time.

Members will be aware that, during debate leading to passage of the Nuclear Waste Storage Facility (Prohibition) Amendment Act 2003, undertakings were given to consider suggested amendments to the principal act to strengthen it and approve the state's position in resisting the commonwealth's proposal to establish a radioactive waste repository here. As a result of those discussions, the act will, in the absence of further legislation, expire on 19 July 2003. Further consideration is now being given to the matter raised at that time and this bill seeks to meet the commitment given by the government.

This bill will have three primary effects. First, the bill seeks to amend the Dangerous Substances Act 1979 to apply the major development provisions in the Development Act 1993 to the conveyance of nuclear waste in South Australia. It is proposed to amend the definition of 'conveyance' so that to convey nuclear waste means to move the waste whether by craft, pipeline or other means. An application for a licence to convey nuclear waste will be treated as a proposed project for which an environmental impact statement (EIS) must be prepared.

A number of new definitions are inserted in the Dangerous Substances Act 1979. The definition of 'nuclear waste' is substantially the same as the definition of that term in the Nuclear Waste Storage Facility (Prohibition) Act 2000 but does not include nuclear waste lawfully stored in South Australia prior to the commencement of that act or waste from radioactive material used or handled in accordance with the Radiation Protection and Control Act 1982 if the storage or disposal of the waste has been authorised by that act.

Secondly, the bill seeks to amend the Dangerous Substances Act 1979 so that nuclear waste is included in the definition of 'prescribed dangerous substance'. As a consequence of this amendment, persons will be prohibited from keeping or conveying nuclear waste without first obtaining a licence under the Dangerous Substances Act 1979. The licensing authority will not be able to make a decision on an application for a licence to convey nuclear waste until he or she has had regard to the EIS and assessment report prepared in relation to the proposed conveyance.

Thirdly, the bill seeks to amend the Nuclear Waste Storage Facility (Prohibition) Act 2000 by replacing section 9, which prohibits the importation or transportation of nuclear waste for delivery to the nuclear waste storage facility, with a new provision that prohibits both the transport of nuclear waste into the state and the supply of nuclear waste to another person for the purpose of transportation into the state. It is also an offence under this section to supply nuclear waste to another person in the knowledge or expectation that the waste will be delivered to South Australia. These provisions will have extra-territorial application and breach of them carries substantial penalties.

It is expected that these measures will substantially limit the supply of material to the commonwealth for transfer to any proposed repository. Section 14 of the Nuclear Waste Storage Facility (Prohibition) Act 2000 is repealed. This section, which requires the Environment, Resources and Development Committee of parliament to inquire into, consider and report on the likely impact of a proposed nuclear waste storage facility, is not considered necessary as the act prohibits the establishment of such a facility. The bill also repeals section 15, which provides that the act will expire on 19 July 2003. I commend this bill to members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Amendment provisions

These clauses are formal.

Part 2—Amendment of Dangerous Substances Act 1979

Clause 3: Amendment of section 2—Interpretation

This clause amends the definition of 'conveyance' so that the exception in relation to conveyance of a dangerous substance by a vehicle does not apply to the conveyance of nuclear waste. An amendment is also made to the definition of 'dangerous goods' so that nuclear waste is included within that definition. The clause also inserts a number of new definitions. The definition of 'nuclear waste' is substantially the same as the definition of this term in the *Nuclear Waste Storage Facility (Prohibition) Act 2000*. This definition excludes nuclear waste lawfully stored in South Australia prior to the commencement of that Act or waste from radioactive material used or handled in accordance with the *Radiation Protection and Control Act 1982* if the storage or disposal of the waste has been authorised by that Act.

Clause 4: Substitution of section 13

13.'Prescribed dangerous substance' for the purposes of this Division

Section 13 is repealed and a new section substituted. The new section 13 provides a definition of 'prescribed dangerous substance' that includes nuclear waste. This means that the provisions of Part 3 Division 2 of the Act, dealing with licences to keep dangerous substances, apply in relation to nuclear waste.

Clause 5: Substitution of section 17

17.'Prescribed dangerous substance' for the purposes of this Division

Section 17 is repealed and a new section substituted. The new section 17 provides a definition of 'prescribed dangerous substance' that includes nuclear waste. This means that the provisions of Part 3 Division 3 of the Act, dealing with licences to convey dangerous substances, apply in relation to nuclear waste.

Clause 6: Insertion of Part 3 Division 5

This clause inserts a new Division into Part 3 of the Act.

Division 5—Special provision for nuclear waste

22A.Conveyance of nuclear waste declared project under Development Act

Part 3 Division 5 includes a new section that applies to nuclear waste only. Section 22A provides that the provisions of Part 4

Division 2 Subdivision 1 of the *Development Act 1993* apply, subject to any modifications prescribed by regulation, to the conveyance of nuclear waste as if a declaration has been made by the Minister under section 46 of that Act that the conveyance of nuclear waste in the State generally is a kind of project to which the section applies. Those provisions also apply as if every proposal to convey nuclear waste, as evidenced by a licence application, is a proposed project for which a preparation of an Environmental Impact Statement is required.

A Competent Authority must refer any application for a licence to convey nuclear waste to the Minister to whom the administration of the *Development Act 1993* is committed. The Competent Authority must not make a decision on the application without first having regard to the EIS and associated Assessment Report prepared as required by section 22A and the relevant provisions of the *Development Act 1993*.

Part 3—Amendment of Nuclear Waste Storage Facility (Prohibition) Act 2000

Clause 7: Substitution of section 9

9. Prohibition against supply of nuclear waste to controlled person

This clause repeals section 9 of the *Nuclear Waste Storage Facility (Prohibition) Act 2000*, which prohibits the transport of nuclear waste within South Australia for delivery to a nuclear waste storage facility, and substitutes a new section that prohibits the transport of nuclear waste into the State. Under subsection (1), a person who transports nuclear waste into the State is guilty of an offence. Under subsection (2) of new section 9, a person who supplies nuclear waste to another person is guilty of an offence if the waste is later transported into South Australia by the other person and was supplied by the person for the purpose of transport to a nuclear waste storage facility located within the State or the person believed at the time of the supply that there was a reasonable likelihood the other person would transport the waste into the State. By virtue of section 6, the *Nuclear Waste Storage Facility (Prohibition) Act 2000* does not apply to nuclear waste lawfully stored in South Australia prior to the commencement of the Act or waste from radioactive material used or handled in accordance with the *Radiation Protection and Control Act 1982* if the storage or disposal of the waste has been authorised by that Act.

Section 9 applies both within and outside the State and outside the State to the full extent of the extra-territorial legislative power of the State.

The Governor may, by regulation, exempt a person from the application of subsection (1) or (2), conditionally or unconditionally.

Clause 8: Repeal of sections 14 and 15

Sections 14 and 15 of the Act are repealed.

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

PUBLIC PARK BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation) obtained leave and introduced a bill for an act to reserve land as a public park for the use, enjoyment and recreation of inhabitants of, and visitors to, the state. Read a first time.

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

That this bill be now read a second time.

Honourable members will be aware that this government has given a commitment to the South Australian public to do everything possible to prevent the commonwealth government from establishing a low level and short-lived intermediate level radioactive waste repository in the state. This bill is a means of honouring this commitment, and we believe that the bill will enable the state to prevent the commonwealth from establishing this repository in South Australia.

On 9 May 2003, the commonwealth confirmed its intention to establish, operate and decommission a national near-surface repository for the disposal of low level and short-lived intermediate level radioactive waste at site 40a in the state's central north. Site 40a is located on crown land, currently subject to a pastoral lease. To establish the repository, the commonwealth must acquire an interest in that land. Mere acquisition of the leasehold would not, in itself, enable the commonwealth to construct the repository. It is understood that the commonwealth will seek to acquire the land using processes under its Lands Acquisition Act 1989. The commonwealth Lands Acquisition Act 1989 does not allow compulsory acquisition of 'an interest in land that consists of, or is in, a public park, unless the government of the state or territory in which the land is situated has consented to the acquisition of the interest' (Part IV, section 42). 'Public park' is defined as land that, under a law of a state or territory, is dedicated or reserved, or is vested in trustees, as a public park or national park, or otherwise for the purposes of public recreation (section 6).

This bill seeks to establish a new public park in South Australia that encompasses the land that is now commonly known as sites 40a and 45a. This new park will allow current pastoral and mining activities to continue. Any existing native title interests will not be altered in any way. The principles that underlie the bill are similar to those within the National Parks and Wildlife Act 1972. The park will have two parts: one on the Arcoona pastoral lease, and one mostly on the Andamooka pastoral lease but crossing into the Arcoona lease. This region of the state is part of the stony plains bioregion and has significant biodiversity values. The biological survey of the bioregion described significant and highly adapted flora and fauna with a number of species occurring nowhere else in the world.

The bill provides the government with the capacity to instigate conservation programs in the park. It also provides the government with the capacity to establish facilities to allow for the public enjoyment and recreation in the park. I commend the bill to members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the measure will be taken to have come into operation on 3 June 2003.

Clause 3: Interpretation

Clause 3 sets out the definitions required for the purposes of the measure.

Clause 4: Effect of Act

This clause provides that the Act has effect despite any other Act or law.

Clause 5: Reservation of Park

This clause creates the Northern Public Park by reserving the area described in the Schedule for this purpose.

Clause 6: Variation of Park

The Governor is able to alter the boundaries of the Park, or the name of the Park, by proclamation. A proclamation that has the effect of reducing the area of the Park can only be made following a resolution of both Houses of Parliament.

Clause 7: Reservation of Park subject to native title

The reservation of the land as a public park, and the addition of land to the Park by proclamation, are subject to native title existing at the time of the reservation or proclamation.

Clause 8: Rights of prospecting and mining

The reservation of the Park does not prevent the acquisition or exercise of rights of entry, prospecting, exploration or mining pursuant to the *Mining Act 1971*, the *Opal Mining Act 1995*, the *Petroleum Act 2000* or the *Petroleum (Submerged Lands) Act 1982*.

Clause 9: Public right of access to Park

Members of the public and visitors to the State are entitled to have access to the Park and to use the park for recreational purposes.

Section 48 of the *Pastoral Land Management and Conservation Act 1989*, which describes the right of persons to travel across and camp on pastoral land, does not apply to the Park. However, under clause 9(3), a person may enter and travel across pastoral land, or may camp temporarily on pastoral land, that comprises, or forms part of, the Park. The right to camp on pastoral land is subject to restrictions described in subclause (4).

Clause 10: Minister may arrange for provision of facilities

The Minister may arrange for the installation of facilities and amenities in the Park for the use of members of the public. However, the installation and use of facilities in the Park must not limit or interfere with the rights of any lessee under the *Pastoral Land Management and Conservation Act 1989*.

Clause 11: Access to Park

This clause provides that for the purpose of entering or leaving the Park, it is permissible for a person to travel across pastoral land between a public access route (within the meaning of the *Pastoral Land Management and Conservation Act 1989*) and the Park. This is subject to the proviso that a person travelling across pastoral land for the purpose of entering the Park must make use of the public access route located nearest to the portion of the Park the person wishes to enter or leave and must use the most direct route between the public access route and the Park.

Clause 12: Regulations

The Governor will be able to make regulations for the purposes of this Act. Subclause (2) lists a number of matters in relation to which the Governor may make regulations. The Governor may, for example, make regulations providing for the protection of natural features of the Park and animals in the Park.

Schedule—Northern Public Park

The Schedule contains a description of the boundaries of the land reserved as a public park under clause 5.

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

COOPER BASIN (RATIFICATION) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to amend the Cooper Basin (Ratification) Act 1975. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

The Cooper Basin (Ratification) Act was enacted to ratify an indenture between the government and the consortium of petroleum companies (known as the producers) who were responsible for the development of the gas reserves discovered in the Moomba area of South Australia and subsequently delivered to both the Adelaide and Sydney markets. The act and indenture provided some certainty to the producers at a time when they were about to incur significant development costs to supply the new Sydney gas market.

In essence, the act reduced the perceived sovereign risk associated with this massive investment by clarifying that joint marketing of the gas by the producers was not a breach of the commonwealth Trade Practices Act 1974-75, that the producers would be entitled to the grant of production licences as required, that the detail of how royalties would be calculated would be explicit, that the producers would have the right to construct facilities, roads and pipelines, etc. in areas outside their licence areas as required to develop those gas reserves, and that all the production licences held by the producers could be treated as a single licence for some requirement under the Petroleum Act for administrative convenience.

In its current form the act has a number of elements that are perceived by the NCC as anti-competitive and review of this act is required under the Competition Principles Agreement 'legislation review' obligation. The key issues that are perceived to be anti-competitive are the lack of transparency in the trade practice authorisations and the exemption from being subject to the economic criteria for grant of production licences.

This bill updates and makes more explicit and clear the trade practice authorisations which, in reality, have little anti-competitive effect in the current gas supply market. In addition, trade practice exemptions for joint petroleum liquids marketing, which also have little anti-competitive effect and which were previously included in the Stony Point (Liquids Project) Ratification Act 1981, have also been included in this bill. It is believed that it is in the public interest to retain these authorisations on the basis that it is important that the state continue to honour commitments made so that future investment and business dealings with governments are not put at risk.

The bill also requires the producers to meet the criteria in the Petroleum Act for the grant of production licences. The existing act allows the grant of a production licence on request and is perceived as giving the producers an advantage over other petroleum licensees. Removal of this provision was agreed with the producers in 1997 and has been voluntarily complied with since that date. Since February 1999, upon expiry of the producers' exploration licences, no further production licences could be acquired and the clause no longer has any real effect. Minor changes to the royalty provisions to account for the introduction of the GST are also included for convenience. I commend this bill to members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure. Subclause (2) provides for the retrospective commencement, namely 1 July 2000, of 2 amendments to the Indenture.

Clause 3: Amendment provisions

This clause is formal.

Part 2—Amendment of Cooper Basin (Ratification) Act 1975

Clause 4: Amendment of section 3-Interpretation

This clause inserts a number of interpretive provisions used in the Act including, in particular, the term authorised agreements and all the individual agreements that are authorised.

Clause 5: Amendment of section 9

This clause clarifies the effect of sections 27 and 28 of the *Petroleum Act 1940* on certain applications for petroleum licenses, and also clarifies that no licences or approvals have been or will be made after 27 February 1999. The clause also provides that licenses existing before that date continue as normal.

Clause 6: Substitution of section 16

This clause inserts a new section 16 which specifies things that are specifically authorised for the purposes of section 51 of the *Trade Practices Act 1974*. These things are:

- the authorised agreements;
- anything done by a party, or anyone acting on behalf of a party, under or to give effect to the authorised agreements or any of them;
- anything done to give effect to the conditions of Pipeline Licence No 2;
- all contracts, arrangements, understandings, practices, acts and things done or made by the Producers before the commencement of the section and related to the sale or delivery of liquids;
- a contract, arrangement, understanding, practice, act or thing done or made by the Producers after the commencement of the section and related to the sale or delivery of liquids if the Producers have given written notice of it to the Minister and the Minister has not, within 60 days of receiving that notice, given

notice to the Producers excluding it from the ambit of the section on the ground that it is contrary to the public interest.

Clause 7: Amendment of Indenture

This clause amends the Indenture. Subclauses (1) to (3) insert various terms in the definitions clause of the Indenture. Subclause (4) clarifies the position with respect to the restrictions on granting or approval of new licenses. Subclause (5) establishes the State's good faith in—

- maintaining in force statutory authorisation of the authorised agreements and related acts for the purposes of section 51 of the *Trade Practices Act 1974*;
- giving consideration to the introduction of legislation authorising agreements for which the Producers may wish to have authorisations under the *Trade Practices Act 1974*.

Subclause (6) provides that GST is to be ignored in determining a range of petroleum-related values and costs. Subclause (7) provides, for the purposes of the amending instructions, that in clause 7 of the measure "Indenture" has the same meaning as that in section 3 of the principal Act.

Schedule—Related amendments

Part 1—Preliminary

Clause 1: Amendment provisions

This clause is formal.

Part 2—Amendment of Stony Point (Liquids Project) Ratification Act 1981

Clause 2: Amendment of section 5—Modification of State law in order to give effect to the Indenture, etc.

Clause 3: Amendment of First Schedule

These clauses make consequential amendments to the *Stony Point (Liquids Project) Ratification Act 1981*.

The Hon. D.W. RIDGWAY secured the adjournment of the debate.

APPROPRIATION BILL 2003

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

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

That this bill be now read a second time.

On 29 May 2003, the 2003-04 budget papers were tabled in the council. Those papers detail the essential features of the state's financial position, the status of the state's major financial institutions, the budget context and objectives, revenue measures, and major items of expenditure included under the Appropriation Bill. I refer all members to those documents, including the budget speech 2003-04, for a detailed explanation of the bill. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the Bill to operate retrospectively to 1 July 2003. Until the Bill is passed, expenditure is financed from appropriation authority provided by the *Supply Act*.

Clause 3: Interpretation

This clause provides relevant definitions.

Clause 4: Issue and application of money

This clause provides for the issue and application of the sums shown in the Schedule to the Bill. Subsection (2) makes it clear that the appropriation authority provided by the *Supply Act* is superseded by this Bill.

Clause 5: Application of money if functions or duties of agency are transferred

This clause is designed to ensure that where Parliament has appropriated funds to an agency to enable it to carry out particular functions or duties and those functions or duties become the responsibility of another agency, the funds may be used by the responsible agency in accordance with Parliament's original intentions without further appropriation.

Clause 6: Expenditure from Hospitals Fund

This clause provides authority for the Treasurer to issue and apply money from the Hospitals Fund for the provision of facilities in public hospitals.

Clause 7: Additional appropriation under other Acts

This clause makes it clear that appropriation authority provided by this Bill is additional to authority provided in other Acts of Parliament, except, of course, in the *Supply Act*.

Clause 8: Overdraft limit

This sets a limit of $50 million on the amount which the Government may borrow by way of overdraft.

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

NURSES (NURSES BOARD VACANCIES) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

The purpose of the bill is to provide for the filling of a casual vacancy on the Nurses Board of South Australia without the need for an election. The Nurses Act 1999 ('the act') establishes a Nurses Board of South Australia. The board has responsibility for the registration of nurses and the regulation of nursing for the purpose of maintaining high standards of competence and conduct by nurses in South Australia. The Nurses Board consists of 11 members appointed by the Governor. Five of these members are registered or enrolled nurses as defined under the act, chosen at an election conducted in accordance with the Nurses (Electoral) Regulations 1999 ('the regulations').

The first board under the act was appointed in October 1999. In December 2000, one of the nurses elected in accordance with the regulations resigned, creating a casual vacancy on the board. The act and regulations make no provision for filling a casual vacancy, meaning that a casual vacancy may only be filled by a member elected in accordance with the regulations.

Cost. The approximate cost of an election to the Nurses Board of South Australia to fill a vacancy is $42 000. All registration boards under the health portfolio are expected to be financially self-supporting and are established and serviced outside the Department of Human Services. Any income derived from these boards is utilised for the day-to-day operations of the board. As such, the cost to fill an election vacancy represents a significant expense to the board. While the resignation in December 2000 created the first casual vacancy under the act, it is expected that there are likely to be future vacancies that would result in considerable expense and inconvenience to the board if the act is not amended. Continued incurring of those expenses may result in higher registration fees for nurses. This represents an unnecessary financial burden for the registered and enrolled nurses in South Australia.

Given the need to avoid increased expense and administrative complexity, it is appropriate to amend the act to provide for the filling of a casual vacancy without the need for an election but to continue to allow for the involvement of nurses in the selection of a replacement by requiring consultation with certain prescribed bodies that represent nurses' interests. This bill amends the act by providing that, should a casual vacancy occur in the office of a board member who is a registered or enrolled nurse chosen at an election conducted in accordance with the regulations, the Governor

may fill that vacancy by appointing a registered or enrolled nurse nominated by the minister to whom the act is committed.

This nomination may be made only after the minister has consulted with bodies representing the interests of nurses. These bodies are prescribed by the schedule of the act, and are as follows: the Australian Council of Community Nursing Services (SA); the Australian and New Zealand College of Mental Health Services; the Australian College of Midwives Inc.; the Australian Nursing Federation; and the Royal College of Nursing Australia.

Both the Department of Human Services and the Nurses Board of South Australia were consulted and have nominated these bodies as representing the interests of nurses. The Governor may, by regulation, add to or delete from this listing as required. The bill provides that a new member is appointed to the Nurses Board for the unexpired balance of the term of that person's predecessor. This bill achieves a balance in protecting the interests and continued involvement of nurses in the process of selecting board members whilst reducing unnecessary cost and administrative complexity. I commend this bill to the council.

The Hon. SANDRA KANCK: The Democrats welcome this bill and the opportunity to address it. It was introduced into the House of Assembly on 22 October last year so, more than eight months on, we are dealing with it. It does lead me to ask some questions about procedures in the House of Assembly. Given the enormous cost that the minister tells us is involved in having an election when a casual vacancy is created, it is surprising that it was not given more serious treatment than this. The Democrats note that the bill was amended in the House of Assembly. As originally worded, it gave the Minister for Health the power to appoint someone to that casual vacancy.

As soon as I became aware of the bill in its original form, I put the message out that, when it finally came to the Legislative Council, I would amend it to ensure that, rather than the minister making that appointment, it would be done as a countback of the votes when the members of the board were originally elected. I am pleased therefore to see that the government has got hold of this idea and taken some of it to heart. So, as the bill stands, as best as I read it, if a casual vacancy occurs inside 12 months of the original election, there will be a countback. Thereafter, it appears that the minister will make it as an appointment.

Quite frankly, I cannot see why, after 12 months, the minister needs to have any right to intervene. One has only to look at the processes that occur within this Legislative Council. If a casual vacancy comes up, we do not say that the political parties get to appoint the member only for the first 12 months after the election. We say that applies for the whole eight years of that person's term. Today I have put an amendment on file that requires a countback of the votes for that election for the whole period of the appointment of that particular board.

I also indicate that, at the same time, through the amendments that I have put on file, I will be attempting to amend the title so that it becomes the nurses and midwives act. It was very interesting to see the groups that are now listed in the schedule as bodies representing the interests of nurses, which highlights the ridiculousness of the situation. Among the groups listed under the heading 'Bodies representing the interests of nurses' is the Australian College of Midwives, not the Australian College of Nurses. Midwives represent midwives: midwives do not represent nurses. That indicates the stupidity of this situation. I will not labour now the argument as to why we should have separate recognition of midwives in the wider context of the act because I will address that in committee. The Democrats support the second reading.

The Hon. D.W. RIDGWAY: On behalf of the Liberal Party, I rise to speak in support of this bill. This amendment seems straightforward in that it bypasses the need for an election when a casual vacancy is created on the Nurses Board. Under the Nurses Act and regulations of 1999, there is no provision for the filling of a board vacancy outside the formal election process outlined in the regulations. This means that an election must be held if one of the five enrolled or registered nurses on the board chooses to resign from the board. The cost of an election to fill a vacancy on the board is approximately $42 000.

Under the health portfolio, all registration boards are expected to be financially self-supporting. Given that the board itself has to fund any election to fill a vacancy, it seems obvious that an extra $42 000 would be a considerable saving for a self-funded board. The Nurses Board has responsibility for the registration of nurses and their standards of competence and conduct. A $42 000 saving in board costs would prevent the passing on to nurses of higher registration fees. As such, the bill could be said to indirectly support nurses in this state by saving them the burden of higher registration fees and by providing a simpler administrative system for the board. It is of paramount importance to our community and our health system that we do everything we can to support and encourage nurses in this state. This includes keeping the registration fees within an affordable range.

The amendment proposed in this bill outlines a clear course of action for the Nurses Board to take when filling a casual vacancy. The course outlined includes the consideration of previous and non-winning candidates to board positions, and, in the event that these candidates no longer wish to serve on the board, there is provision for the health minister to appoint a candidate, provided the relevant nurses bodies are consulted. Given that it appears to be an adequate provision for the nurses bodies to have their say in the process, in the event the minister has to provide a candidate I cannot see why there would be any objection to the alternative course provided, and I commend the bill to the council.

In relation to the proposed amendment put on file by the Hon. Sandra Kanck, while the Liberal Party is in favour of supporting and enhancing the important role that midwives play in our community, especially in rural and regional South Australia, at this stage I am not sure this is an appropriate course of action to take in amending this bill. But I commend to the council the amendment concerning the filling of a casual vacancy.

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

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

A quorum having been formed:

CORONERS BILL

Adjourned debate on second reading.

(Continued from 26 June. Page 2666.)

The Hon. T.G. CAMERON: The Coroners Court is a common law court and the coroner is one of the oldest positions at law. The Coroners Act was passed in 1975 to centralise its procedures and powers. The government has decided to draft a new act rather than substantially amend the existing act. This bill repeals the Coroners Act 1975. It provides that the Coroners Court has jurisdiction over reportable deaths, that is, the power to investigate deaths that are unexpected, unusual, unnatural, violent or unknown, or related to medical treatment, or where the person is in the custody or care of the state because of mental or intellectual capacity.

The current provisions and procedures of the coronial jurisdiction are maintained. In addition, the Coroner will be able to delegate any of their administrative functions, and the Attorney-General can nominate a deputy state coroner (all magistrates are deputy state coroners) to fulfil the role of State Coroner during their absence. Investigators may be appointed to assist investigations and investigations by police officers. The bill formally establishes the Coroners Court as a court of record with a seal. This changes the court from a common law one to a legislatively prescribed one, and sets out its powers, functions, appointments and procedures. The court is given greater flexibility to accept evidence from under 12s and from illiterate or intellectually disabled people. It provides that a court must hold an inquest into a death in custody, and affirms that the court may not hold an inquest into situations that become the subject of criminal proceedings.

The State Coroner has the power to issue a warrant, or a warrant for the exhumation of bodies, with the consent of the Attorney-General. It is proposed, in order to ensure separation of powers, that the power to issue warrants for the exhumation of bodies should not depend on the consent of the Attorney-General. The bill maintains the informal, inquisitorial procedure of the Coroners Court. The court is not bound by the rules of evidence, and may inform itself of any matter it sees fit. It is a court that acts according to equity, good conscience and merits rather than on technicalities. However, the right against self-incrimination is respected.

The court cannot make findings of civil or criminal liability but may make recommendations that might prevent the event into which it inquires from happening again. Inquests may be reopened at any time. The Supreme Court may order that the finding be set aside. The bill establishes a new offence of failing to provide the Coroner or a police officer with information about a reportable death. The Coroner may assist in the inquests of other state coroners, and is given the power to do so. While information gained on people by the court is protected, the State Coroner has the power to provide information for research, education or public policy development. I indicate my support for the second reading of the bill.

The Hon. P. HOLLOWAY (Attorney-General): I thank honourable members for their indications of support for this bill. The Hon. Ian Gilfillan has placed on file a number of amendments that he claims implement outstanding recommendations of the Royal Commission into Aboriginal Deaths in Custody. These recommendations (Nos 13 to 17) are aimed at ensuring that coroners have the power to make recommendations concerning deaths in custody, that, where made, coronial recommendations are duly considered by relevant government agencies—in particular, custodial agencies—and that the government's response to coronial recommendations are subject to an appropriate level of public scrutiny. I do not intend to set out the government's formal response to the honourable member's amendments in these closing remarks: I will address each amendment in detail as and when they are moved during the committee stage. I can say that the government will be opposing the amendments.

The government has examined the relevant royal commission recommendations and is of the opinion that, to the extent appropriate, they have been implemented. The provisions of the bill and the administrative arrangements already in place ensure that the Coroners Court has the power to make recommendations about matters which it believes will prevent deaths in custody occurring, that copies of coronial recommendations are provided to relevant government agencies and ministers, and that government agencies thoroughly investigate the implementation of any coronial recommendation directed at them.

Specifically, in relation to death in custody inquests, the Department for Correctional Services provides a report to the State Coroner (one of several), detailing its response to any recommendation relevant to the department made by a coroner. In terms of public scrutiny, recommendations are available both on the Courts Administration Authority web site and from the State Coroner's office. As honourable members would be aware, the government's response to any recommendation may be pursued through the minister responsible for the relevant agency in parliament.

The Hon. Mr Gilfillan appears to have misconstrued what is required by several of the relevant royal commission recommendations. He appears unaware that at least two of these recommendations (13 and 14) have been fully implemented. Most importantly, however, he has not identified any link between the royal commission recommendations, what he says are the deficiencies in the current or proposed legislative and administrative arrangements designed to ensure that coronial recommendations are given due consideration (or even what these deficiencies are), and how his amendments will address these alleged deficiencies.

The Hon. Mr Gilfillan said that, while his amendments will not force the government to implement any given coronial recommendation, they will help government departments to work through the process of dealing with recommendations in a positive way. To suggest, as the honourable member does, that the Department for Correctional Services does not deal with coronial recommendations about deaths in custody in a positive way misrepresents completely how the department responds to a death in custody recommendation.

Immediately following any death in custody, the department undertakes its own internal review of the incident. The review report, including any departmental recommendations, is forwarded by the Chief Executive to the state Coroner. Upon receipt of the Coroner's findings on inquest, any recommendation relevant to the department is carefully considered. Where appropriate, recommendations are implemented to the extent possible. A further report, detailing the department's response to any recommendation, is then forwarded to the state Coroner.

Not all coronial recommendations are implemented; not all can be. There may be a number of reasons why a coronial recommendation cannot be implemented. This is not a criticism of the Coroners Court nor of any Coroner. Many coronial recommendations have been implemented by the

department, either fully or in part, leading to improvements in the department's management of vulnerable prisoners, both Aboriginal and non Aboriginal. Reforms introduced directly as result of coronial recommendations or departmental reviews include:

- a review of E division in Yatala examining specific issues raised by the Coroner, such as the modification of furniture and fittings to remove hanging points;
- an extensive program to cover exposed pipes in B division;
- the introduction of cameras into a number of cells to ensure that prisoners who are identified as vulnerable can be monitored effectively;
- the upgrading of all cell intercoms at Yatala, Adelaide Women's Prison, and the Adelaide Remand Centre to ensure that every prisoner has immediate access to officers at any time. Other prisons will be similarly upgraded progressively;
- the introduction of a buddy system to ensure that prisoners identified as being at risk are accommodated with other prisoners;
- the appointment of a Principal Psychologist, who is currently undertaking a review of the stress screening tool that is used to assess all new admissions to the prison system;
- the improvement of processes for the exchange of information between custodial and medical staff to ensure that all possible steps are taken in order to identify prisoners who are thought to be at risk of self-harm; and
- the creation of additional staffing positions in prisons during periods when prisoners are secured in cells. This has improved the ability of staff to respond to incidents.

As honourable members will recall, in his second reading remarks the Hon. Mr Gilfillan suggested that the department had ignored a coronial recommendation that it conduct a review of the design of older prison cells, particularly those in E division at Yatala, in line with the Victorian Building Design Review Project. I can advise honourable members that, contrary to the Hon. Mr Gilfillan's assertions, the department has been assessing the work undertaken in Victoria. In fact, South Australian officers contributed to that very review. I am also advised that departmental officers have conducted a review of E division, and the department has sought and received funding to address a number of points of concern identified in the review.

The government has no doubt that implementation of these and other coronial recommendations has prevented deaths in custody occurring within the South Australian prison system. My colleague the Minister for Aboriginal Affairs and Reconciliation recently outlined a number of preventive measures implemented by the department in a ministerial statement concerning the death of a young man in Port Lincoln prison.

The Hon. Mr Gilfillan also mentioned this tragic event in his second reading remarks. Again, I extend the government's condolences to the young man's family and reassure them that his death will be the subject of a full coronial inquest. I can assure honourable members that any recommendations made by the Coroners Court will be given careful consideration by the department in line with its existing procedures. Again, I thank honourable members for their contributions.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: My remarks will be brief, indicating my support for the thrust of this bill. I note that this bill is substantially the same as the bill introduced by the previous government which, because of the intervention of the state election, elapsed. At that time, I indicated that I would support the amendments of the Hon. Ian Gilfillan, particularly in relation to recommendations arising out of a Coroner's findings with respect to deaths in custody. My position has not changed, and I commend the Hon. Ian Gilfillan for persisting with respect to those amendments.

In relation to the issue of the definition of reportable deaths and the requirement of the Coroner to hold an inquest, I note that if it is a death in custody and there is a broadening of the definition then I welcome those changes. I note that for other deaths it is a discretionary issue for the Coroner or, alternatively, the Attorney can direct an inquiry in any case.

I wish to place on record, in terms of the discussions I have had recently with officers of the Attorney's department, that I have previously raised in this chamber the issue of gambling related suicide. It is an issue that concerns me greatly. The Productivity Commission report released at the end of 1999 referred to this and, from memory, indicated that there were something like 50 to 400 gambling related suicides nationally each year. I will be asking the government what its position will be in relation to ensuring that there are inquests concerning gambling related suicides where, for instance, there has been a note indicating clear evidence in relation to matters arising out of a person's gambling problems and associated financial difficulties.

That is an issue that I think is particularly important from a public policy point of view, given that the state sanctions gambling as an activity. It derives a considerable benefit by way of taxation and, having appropriate resources via the Coroner's office to look at gambling related suicides, the government ought to consider that matter. One of the worst experiences I have had, as a member of parliament, is to speak to a man who lost his wife of many years due to gambling related suicide. He showed me the note and discussed with me the circumstances of her death and the period leading up to it. There was no doubt in his mind, particularly with respect to the note, that it was related to that woman's poker machine addiction. That is certainly an extreme case but, if the Coroner can hold an inquest into a gambling related suicide and if it leads to recommendations that will prevent such suicides in the future, then that is unambiguously a desirable outcome.

So, with those remarks, I look forward to the government's response on this issue and to learning what the Attorney's position is in relation to directing an inquiry into gambling related suicides, at least on an annual basis, where there is clear evidence linking a deceased person's gambling problems and their death. I also indicate that I will continue to support the Hon. Ian Gilfillan's amendments, as I did in the previous parliament.

The Hon. P. HOLLOWAY: I will examine the matters the Hon. Nick Xenophon has raised and I will make a response when we next come to debate this bill.

The Hon. R.D. LAWSON: I should say, by way of preliminary remarks, that I have just heard the Attorney indicate that the government will not be supporting the amendments moved by the Hon. Ian Gilfillan in relation to implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. It seems extraordinary to me that the Australian Labor Party, which purports to be the champion of Aboriginal interests—and

with the minister in this chamber having made a ministerial statement to the house in respect of the tragic recent death at the Port Lincoln prison of an Aboriginal prisoner—should do this about-face. Previously, the Labor opposition strongly supported amendments in these terms, those amendments having been recommended by the Aboriginal Issues Committee and the Criminal Law Committee of the Law Society of South Australia. However, I have not had an opportunity to fully examine the reasons given by the Attorney-General today for the government's about-face. I intend to study those reasons carefully before making a recommendation to my own party room about the attitude we should take in respect of the Hon. Ian Gilfillan's amendments.

Progress reported; committee to sit again.

CHICKEN MEAT INDUSTRY BILL

In committee.

(Continued from 26 June. Page 2665.)

Clauses 1 and 2 passed.

Clause 3.

The Hon. CAROLINE SCHAEFER: I move:

Page 4, after line 10—insert:
'exclusion notice' means a written notice under Part 5 Division 5;

A number of amendments are consequential to this amendment. This amendment relates to the definition of an exclusion notice. I have sought in a number of places within this bill to make it incumbent on either party—either growers seeking not to work with a particular processor or contractor or processors planning not to renew a contract with growers—to give notice of their no longer wishing to participate. I seek this in particular to support the growers. I said in my second reading speech that I do not believe that this bill will help the growers, but I believe that if the processors decide that they will not renew a contract with the growers it is incumbent on them to give notice that that is their intention so that those people are allowed as much time as possible to make the necessary changes to their lives.

The Hon. P. HOLLOWAY: The government accepts the amendment. This is essentially a redrafting exercise, except that the exclusion now needs to be given six months before the expiry of the growing agreement, not in the last six months of the contract, as provided by the present clause. The government believes that this would allow the dust to settle prior to the start of collective negotiations, so we support the amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, line 13—delete 'tied'

As the second reading explanation indicated, and as subclauses (2) and (3) define, all growing agreements in this industry are most likely to be tied agreements, at least for the length of the contract. Proposed new subclause (5)(1)(c) will identify that there are commercial and farm management issues that necessarily lead to the industry practice of having tied growing agreements. As all agreements are tied, there is no need to continue on with the distinction between tied and non-tied agreements. This aids in lessening the number of mechanical factors in the scheme that the processors can use and have used in an attempt to gain the system.

The Hon. CAROLINE SCHAEFER: The opposition supports this series of amendments. As has been pointed out, this is a drafting change to the bill, and the implication of tied agreements goes with the fact that the growers are contracted. I indicate that, as a consequence of these amendments, I will move that the word 'tied' be removed from a number of my amendments also.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, lines 30 to 34—delete subclauses (2) and (3).

I believe that this is essentially consequential to the amendment I just moved.

The Hon. CAROLINE SCHAEFER: I will support it.

Amendment carried; clause passed.

Clause 4 passed.

Clause 5.

The Hon. P. HOLLOWAY: I move:

Page 6, lines 7 and 8—delete paragraph (c) and substitute:
(c) the contractual practices, bio-security and other farm management issues and the commercial factors that restrict growers to exclusive dealings with processors (at least for the terms of growing agreements); and

This amendment more accurately reflects the reasons why processors have tied growing agreements with growers and, because it indicates the usual industry practice, supports the deletion of the distinction between 'tied' and 'non-tied' arrangements in the mechanical elements of the scheme. Of course, if a processor and a grower want a contract that establishes the grower's right to grow for other processors in an untied relationship, there is nothing in the bill to stop that happening. So, I guess that it is flowing on from the comments I made earlier.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 6, line 11—delete 'tied'

This amendment is consequential.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 6, line 15—delete ', 7 and 8' and substitute:
and 7

I will speak to this amendment at this stage, although it defines my later amendment, which requires the deletion of clause 28 and allows for mediation at point of exclusion but not for arbitration. I have agreed to leave 'compulsory arbitration' in clause 20, which is the time at which the growers and the processors strike their collective agreements and negotiate for contracts.

It seems to me, then, quite superfluous to have compulsory arbitration at a later stage, and I believe it would cause unnecessary delays. The more times compulsory arbitration can be enacted, the longer it will be before there is any security either to the growers or the processors—but particularly, I believe, to the growers. I believe that the contracts entered into with the right to compulsory arbitration should cover the point of exclusion as well as the other areas. So, I am moving the amendment that compulsory mediation remain, and compulsory arbitration be removed from clause 21 but not from clause 20.

The Hon. P. HOLLOWAY: The government strongly opposes this amendment, believing that this clause, along with clause 28, is really fundamental to this bill. The amendment, if it was carried, would have the effect of taking away a fundamental element of the scheme in the bill, that is, the protection of growers from action or threats by processors to unreasonably—and I stress the word 'unreasonably'—refuse them a further contract, and thus negate any chance of genuine negotiations.

If the amendment is accepted, the balance of bargaining power will remain firmly with the processors, with growers and grower representatives able to be cowered by threats by processors not to offer them a further contract. There is a long and unfortunate history within this state of coercive conduct. In effect, the government believes that deletion of this provision would essentially neuter the entire scheme of the bill, leaving contract negotiations as one-sided as they would be in a deregulated environment. The government believes that this clause is essential for the key bill, and that is why it will strongly oppose the amendment.

The Hon. CAROLINE SCHAEFER: I would agree with that if it were not for the fact that there is ample provision for compulsory arbitration when signing a contract. I suppose the best comparison I can make is that, if I have a sharefarmer on a five-year contract, surely I cannot be compelled to renew that contract at the end of that time. I am a contracted grape grower but, at the end of my contract, the winery is under no obligation—certainly no obligation under arbitration—to renew that contract. This is exactly why I seek a decent length of time for an exclusion notice, because I believe that growers have the right to know as far in advance as possible that they will be out of contract at the end of their contracted period. I cannot see that anyone can be forced under arbitration to renew a contract after it has expired.

The Hon. P. HOLLOWAY: There are a couple of points that need to be made, because this is crucial to the bill. First, the scheme does not guarantee continuity of contract for inefficient growers, but the bill aims to protect against unreasonable and harassing conduct by processors. I think it is well understood that the chicken meat industry is somewhat different from other industries in that chicken growers have a significant investment in their operations. Of course, essentially, it is limited to one purpose, because chicken sheds can only be used to grow chickens; there is not much else you can do with them.

Arbitration is not about forcing processors to take inefficient growers—rather, there is no guarantee of contract—but it is designed to give some measure of protection against unreasonable conduct. Processors are not required to contract for more growing services than they actually require. Processors are quite entitled to sign up growers on individual contracts or to develop their own home farms and then drop the most inefficient growers off their list. This is the only industry where processors have monopsony power; that is, we have one major and two minor processors in South Australia.

There is no auction market for meat chickens—in fact, growers do not even own the chickens—unlike other industries such as grape growers, as the Hon. Caroline Schaefer mentioned. However, viticulturalists can grow their own grapes and, if they cannot sell them, they can make and sell their own wine, but chicken growers have no option but to agist chickens for their processor. All of their assets are sunk; there is no other real use for their growing sheds, as I mentioned earlier. Processors are vertically integrated; they own everything from the breeding stock to the processing works and thus they have overwhelming market power. The market is significantly geographically limited. Growers must be within (at the most) two hours' drive of the processors' breeding and processing operations to avoid significant stock loss in transit. If ever there was an example of market failure, it is the growing sector of the chicken meat industry. Thus, there is justification for regulation.

Importantly, clause 28(3) (which is linked to the clause we are now debating) provides a number of factors that the arbitrator must take into account. The focus is upon the arbitrator to decide whether the grower has been unreasonably excluded from the group of growers negotiating a further growing agreement. The arbitrator must take into account: the need to redress the imbalance in negotiating power between processors and growers; any change in the level of growing services that the processor proposes to require from growers; the grower's level of efficiency as a grower; the grower's level of compliance with the grower's obligations; any activities of the grower as a grower negotiator or representative of growers; any activities of a grower causing commercial detriment to the processor; and, finally, the interests of the chicken meat industry.

So these factors (the need for the industry to be dynamic and commercially viable as well as to have fair and equitable conditions) together with the clause that we are effectively debating now (clause 5(2)(b)—best practice standards) ensure that the processors' reasonable commercial concerns are taken into account as well as the efficiency or performance issues concerning the grower and any commercial detriment caused by the grower to the processor. But the processor cannot target a grower or a grower representative in a way that is unreasonable, and that is, I think, the crux of the argument.

The Hon. J.F. STEFANI: I support the government's position. I have spent a considerable amount of time speaking not only to the growers but also to government officers in relation to the amendments which the minister has brought into this place. I think that it is a very reasonable suggestion that the amendments should provide a mechanism by which the arbitrator will take into consideration the appropriate aspects of negotiation, as the minister has outlined. I have great sympathy for the position in which the growers find themselves.

In the past there has been considerable imbalance in the process whereby negotiations have been achieved. It is a model that has been working well in Western Australia (albeit in a different structure but certainly in a similar way), and there has been no protracted case. Only one protracted case went all the way to the barrier, so to speak, while all the other negotiations have been successful. There has been some balance in that, as the minister has pointed out, the growers have incurred an enormous amount of capital outlay and, at the end of the day, if the processors are acting unreasonably and unscrupulously we have growers with substantial assets with which they can do nothing other than to declare themselves bankrupt, and their families, as a result of an enormous amount of risk, will be left high and dry.

The Hon. IAN GILFILLAN: I indicate the Democrats' opposition to the amendments. I agree with the arguments put up by the minister and my colleague the Hon. Julian Stefani. It is absolutely essential in this situation that we take into account the actual involvement and commitment of the two parties to arbitration. The shadow minister indicates that compulsory mediation may be, to a certain extent, the panacea. It is a bit like saying that you can take a horse to water but you cannot make it drink. You can take parties to mediation and if one of the parties does not want the matter to be mediated that falls to the ground and we would then rely on some outside determination.

A similar principle has been applied to shop leases in shopping centres, a matter with which I was involved previously where the law now currently recognises that there

is an obligation on the proprietor, in effect, to guarantee continuing tenure unless in default of a set of performance indicators agreed when the contract was established. That is the principle that is applied here. You have a commitment for an exclusive and long-term operation and, in the view of the Democrats, it is essential that the processors respond to that obligation.

If those people in that industry are to be subjected to certain periods of uncertainty as to whether their contract is to be renewed and under what circumstances they would have to bargain and negotiate, any fair-minded member of this place would recognise not only that it is unfair but also that it puts unreasonable stress on the growers. The Democrats strongly oppose the amendment.

The Hon. CAROLINE SCHAEFER: I can count, but I would like to clear up a couple of issues here. There seems to be the mistaken understanding that I am opposing all compulsory arbitration—I am not. This amendment allows, first, compulsory mediation and, if that does not work, compulsory arbitration at point of contract. It allows for that to continue throughout the contracted period. It then allows for it to apply at the end of the contract. I can foresee a bureaucratic mess where no-one will know whether or not they are growing chickens. They could be permanently or semi-permanently in a state of either compulsory mediation or compulsory arbitration. I think we all understand that the chicken meat industry is quite exceptional compared with most other primary industries. However, if it comes to a legal contest between the duopoly, which is the processors in this state, and the growers, and whether or not they have collective powers, I suggest the duopoly will win. I believe that, by continuing with compulsory arbitration every step along the way, it will react back on the growers.

I point out to the Hon. Julian Stefani that his projected amendment, which was to be that of the government's, was for benchmark pricing, but the government has chosen to do a backflip on that. We are now back to quite extensive powers of both the regulator and arbitrator. I am pleased that the bill has been amended to outline more specifically those powers and to write them into the bill, rather than have our guessing at them. I cannot see that compulsory arbitration more than once during the life of a contract will help anyone. However, as I said, I can count, so I will not prolong the debate on this matter.

The Hon. P. HOLLOWAY: This bill is pro-negotiation. The objective of the bill is to ensure that processors and growers negotiate and come to their own agreement, wherever possible. The bill is a last resort bill. The provisions in Western Australia have either never been used or rarely been used. That is the objective of the legislation. Some of these measures would not be used. If a grower is inefficient and has been dropped off, and contract renewals are not offered, it is unlikely that an inefficient grower would undertake what could be a lengthy and expensive process. We need a measure to ensure that the growers that are efficient are not abused or left unprotected in relation to the negotiation process. The aim of the bill is not to protect inefficient growers; nor is it to prevent change in the industry. Rather, it is to be a last resort measure so that no unreasonable action will be taken in this industry where there is an imbalance of market power.

The Hon. J.F. STEFANI: Will the minister clarify whether the arbitrator is required to give—in fact, must give—due consideration to the benchmark pricing cost of growing? Quite clearly, that is part of his brief. Will the minister clarify that? In my discussions and briefings about the changes of direction to the amendments, I was given that clear understanding. I want to be reassured that is the case.

The Hon. P. HOLLOWAY: We will come to clause 20, which is the key clause which deals with those issues, shortly. I will be moving to insert new subclause (7), which provides:

> The arbitrator must, in arbitrating the dispute, have regard to the information published by the registrar relating to growing costs and pricing in the chicken meat industry and, in doing so, is not required to entertain any argument about the accuracy or completeness of the information.

Essentially, proposed new subclause (7) will ensure that the arbitrator must have regard to that published information.

Amendment negatived; clause as amended passed.

Clause 6 passed.

Clause 7.

The Hon. P. HOLLOWAY: I move:

> Page 7, after line 13—insert:
>
> (ba) to gather and maintain current information about growing costs and pricing in the chicken meat industry in South Australia and (so far as is reasonably achievable) in other parts of Australia, and to publish (whether in the *Gazette*, on a web site or otherwise) the information in a general form consistent with the registrar's obligations of confidentiality; and

We are really talking about an additional function of the registrar. I suppose one could also add to this amendment the amendment I will move shortly to clause 7(2) and the insertion of proposed new clauses 7A and 7B. These amendments are being made in order to enable the registrar to collect data, collate information and publish information dealing with the cost of production, economic surveys and (with the aid of a model farm) growing fee or fees relating to particular chicken meat enterprise scales and technologies. This will enable base and survey information which will inform the grower/processor negotiations to be made transparent and which will particularly assist growers by giving them information that may not otherwise be available to them.

The Hon. CAROLINE SCHAEFER: As I understand it, this seeks to outline the registrar's powers more clearly and, as the minister has said, obliges the registrar to collect and publish that information and provide that information to the arbiter. This makes the registrar's powers a little more transparent to all of us and goes some way, but only a small way, to that which was requested by the Hon. Julian Stefani. We will not oppose it.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

> Page 7, lines 16 and 17—delete subclause (2) and substitute:
>
> (2) The registrar must give consideration to any submissions made to the registrar about the accuracy or completeness of information about growing costs and pricing published by the registrar and make any adjustment to the information that the registrar considers appropriate in view of the submissions.

As I indicated, this amendment, together with the new paragraph that we have just inserted, will enable the registrar to collect data and collate and publish information dealing with those matters we have just discussed.

The Hon. IAN GILFILLAN: I indicate the Democrats' support for this amendment. This series of amendments makes quite dramatic and substantial improvements to the original bill, and I congratulate the government on seeing the value of these amendments. I acknowledge the work of my colleague the Hon. Julian Stefani in having discussions and helping to evolve these amendments, and I think it is important that that be on the record.

It should also be on the record that, were it not for the detailed committee work and diligent approach to legislation by the Legislative Council, a lot of legislation dealt with by this parliament would be raced through in an inefficient and inappropriate way by the other place. I hope that, as the constitutional convention draws near, the detail of this very valuable work is acknowledged.

The Hon. P. HOLLOWAY: I thank the honourable member for his comments and endorse his remarks about the role played by the Hon. Julian Stefani, as well as by the Hon. Ian Gilfillan.

Amendment carried; clause as amended passed.

New clause 7A.

The Hon. P. HOLLOWAY: I move:

Page 7, after line 19—insert:

Registrar's power to require information

7A.(1) A person must, if required to do so by the Registrar by written notice—

(a) give the Registrar, within a time and in a manner stated in the notice (which must be reasonable), information in the person's possession that the Registrar reasonably requires for the performance of the Registrar's functions under this Act; and

(b) verify the information by statutory declaration.

(2) A person cannot be compelled to give information under this section if the information might tend to incriminate the person of an offence.

We will deal with new clauses 7A and 7B sequentially but I will talk to them together. These clauses give the registrar the power to require information and consequently impose an obligation on the registrar to protect confidential information from FOI requests. The information and collection power relates, inter alia, to the new function in clause 7(1)(ba) relating to growing costs and pricing.

New clause inserted.

New clause 7B.

The Hon. P. HOLLOWAY: I move:

Page 7, after line 19—insert:

Registrar's obligation to preserve confidentiality

7B.(1) The Registrar must preserve the confidentiality of information gained in the course of the performance of the Registrar's functions under this Act that—

(a) could affect the competitive position of a processor, grower or some other person; or

(b) is commercially sensitive for some other reason.

(2) Subsection (1) does not apply to the disclosure of information between—

(a) persons engaged in the administration of this Act; or

(b) the Registrar and an arbitrator arbitrating a dispute under this Act.

(3) Information classified by the Registrar as confidential is not liable to disclosure under the Freedom of Information Act 1991.

New clause inserted.

Clauses 8 to 10 passed.

Clause 11.

The Hon. CAROLINE SCHAEFER: I move:

Page 9, lines 18 to 21—delete paragraph (b) and substitute:

(b) if the processor has given the grower an exclusion notice—6 months before the expiry of the growing agreement to which the grower is party with the processor.

I spoke to this amendment earlier. It seeks to alter the exclusion notice to provide for a minimum of six months' notice.

The CHAIRMAN: I note that the word 'tied' is being removed from the member's amendment.

The Hon. P. HOLLOWAY: Yes. As indicated previously, the government supports the amendment.

Amendment carried; clause as amended passed.

Clause 12.

The CHAIRMAN: I have an indicated amendment in the name of the minister, to page 9, line 29, to delete 'tied'. That is consequential: I think we just amend the bill accordingly.

Clause passed.

Clause 13.

The Hon. P. HOLLOWAY: I move:

Page 10, line 8—delete 'whether the agreement is a tied growing agreement and, if so,'

Clearly, that is consequential on the other amendments we have made to remove the word 'tied'.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 10, lines 10 to 12—delete subclause (2) and substitute:

(2) If a processor becomes party to a growing agreement, the processor must, within 14 days, give the Registrar written notice of—

(a) the date on which the agreement was formed and the date on which the agreement is to expire; and

(b) whether the agreement was collectively negotiated under part 5; and

(c) the name and business address of each grower party to the agreement.

This is a consequential amendment to the deletion of the concept of a tied growing agreement, and it helps simplify clause 13.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 10, lines 16 to 18—delete subclause (4)

This is also consequential on the simplification of clause 13.

Amendment carried.

The CHAIRMAN: The next amendment of the minister, page 10, line 23, to delete 'tied', is consequential. Amendments will be made to reflect that.

The Hon. P. HOLLOWAY: I move:

Page 10, lines 28 to 33—delete subclause (7).

This is consequential on the simplification of clause 13. It is now replaced by a new subclause 13(2), which we have just amended.

Amendment carried.

The CHAIRMAN: The next two amendments of the minister (page 10, line 34 and page 11) are to do with the word 'tied'. Amendments will be made appropriately.

The Hon. CAROLINE SCHAEFER: I move:

Page 11, lines 1 to 3—delete 'written notice, within the period of 6 months before the expiry of a growing agreement to which the grower is party with the processor, indicating that the processor does not propose to make a further growing agreement with the grower' and substitute:

an exclusion notice.

This is consequential on the previous amendments with regard to exclusion notices.

The Hon. P. HOLLOWAY: The government supports this amendment. The critical element is that the notice must be given before the last six-month period of the growing agreement, not in the last six months of the contract, thus allowing disputes to be resolved prior to collective negotiations being commenced, so it is in line with previous amendments that the government has supported.

Amendment carried; clause as amended passed.

Part 5 (Division 1).

The Hon. P. HOLLOWAY: I move:

Division 1, page 12, line 3—delete 'GENERAL PROVISIONS' and substitute:

GROWING AGREEMENTS TO BE IN WRITING

Amendment carried.

Clause 14 passed.

Clause 15.

The Hon. P. HOLLOWAY: I move:

Page 12, lines 7 to 17—delete clause 15.

This is consequential on the deletion of the concept of tied growing agreements. Clause 16 provides an adequate discipline on processors to commence the process with growers who are giving statutory notice before attempting to negotiate a growing agreement with them. On receipt of the notice, growers can elect to negotiate individually or to enter a collective negotiating group.

Clause negatived.

Part 5 (Division 2).

The Hon. P. HOLLOWAY: I move:

Division 2, page 12, line 18—delete 'TIED'.

This is a consequential amendment.

Amendment carried.

Clause 16.

The CHAIRMAN: A consequential amendment has been moved.

Amendment carried; clause as amended passed.

Part 5 (Division 3).

The CHAIRMAN: There is a consequential amendment to be moved by the minister. If that is agreed, alterations will be made to the bill to reflect that.

Amendment carried.

Clause 17.

The CHAIRMAN: This is a consequential amendment. The bill will be amended appropriately.

Amendment carried; clause as amended passed.

Clause 18.

The CHAIRMAN: This is consequential.

Amendment carried; clause as amended passed.

Clause 19 passed.

Clause 20.

The CHAIRMAN: There is a consequential amendment to this clause, so the appropriate alteration will be made. The minister also has another amendment.

The Hon. P. HOLLOWAY: I move:

Page 14, after line 27—Insert:

(7) The arbitrator must, in arbitrating the dispute, have regard to the information published by the Registrar relating to growing costs and pricing in the chicken meat industry and, in doing so, is not required to entertain any argument about the accuracy or completeness of the information.

(8) The Registrar must, if so requested by the arbitrator, provide the arbitrator with information in the Registrar's possession relevant to the dispute.

Following on from the registrar's powers to collect growing costs and pricing information, these amendments provide assistance to the arbitrator in making a decision on the growing fee by allowing an objective third party, namely the registrar, to provide comprehensive pricing information to assist the arbitrator make its decision. This would be similar to the process where panels of experts assist a court to make its decision.

The arbitrator is required to have regard to the information published by the registrar on growing costs and pricing and is not required to reopen and question the information provided by the registrar. The arbitrator may take in as evidence other information provided by both processors and growers. The arbitrator may request the registrar to provide information in the registrar's possession, but not published, that is particular to the grower group with whom the processor is in dispute.

The Hon. CAROLINE SCHAEFER: How can the registrar be described as an objective third party? Part 3 provides that the registrar's functions are to facilitate collective negotiations between processors and growers, advise the minister on the administration and operation of this act, perform any other function assigned to the registrar by the minister, and on the one hand must not make recommendations or disclose information about payment amounts or how payment amounts should be or are determined under growing agreements.

On the other hand, he is described as an objective third party who is to supply exactly that information to the arbitrator. Further, why is the arbitrator not required to entertain any argument about the accuracy or completeness of the information? I would have thought that, if the position of the arbitrator is to compel one or other of the parties involved in this dispute on a number of matters and not just pricing, he would then surely have to make some reference to the accuracy of the information on which he is basing his decision.

The Hon. P. HOLLOWAY: The use of the word 'objective' third party was probably mine in my description of the amendments, but I make the point that here we are seeking to ensure that the processors and growers are not to argue about the data. We want a set of data that is unchallengeable and has been collected by the registrar—it should not be the issue in dispute. It is important for the whole arbitration process that it not be diverted into issues about the accuracy of the data. Obviously the registrar has obligations as we have just moved in clause 7(1)(ba), which provides:

To gather and maintain current information about growing costs and pricing in the chicken meat industry in South Australia and (as far as is reasonably achievable) in other parts of Australia, and to publish (whether within the *Gazette*, on a web site or otherwise) the information in a general form consistent with the Registrar's obligations of confidentiality; and

The registrar has an important function in trying to gather the data together and these disputes should be arbitrated on the basis of that information. I hope that answers the honourable member's question.

The Hon. CAROLINE SCHAEFER: No, I am sorry it does not. I can understand why the registrar is being asked to collect this data and why he or she is being asked to publish it. I can even understand why the registrar must, if so requested by the arbitrator, provide the arbitrator with information in the registrar's position relevant to the dispute, although unless the registrar is collecting additional confidential information I would have thought the arbitrator would be perfectly capable of looking it up on this published web site. What I cannot understand is why there is no requirement, as I read it, for any verification of accuracy of the information provided.

The Hon. P. HOLLOWAY: The processor and grower will provide their own arguments separately without arguing with the registrar. That is the point of the exercise. They will separately put their viewpoints to the arbitrator, but we do not want to see arguments with the registrar about the facts. The registrar has the important function of collecting accurate data, but the growers and processors individually can put their viewpoint to the arbitrator. We do not want create a situation where we have disputes with the registrar. The arbitrator will

certainly be able to hear the viewpoints of both parties separately and make an assessment as he sees fit.

The Hon. J.F. STEFANI: I will clarify what I believe the government has endeavoured to do, and my understanding of the amendment and the thrust of the bill. In the first instance, the registrar collects information from all sorts of sources, including the growers and the processors. In the course of that duty and function, the registrar can publish average information of growing costs or other advice that the registrar has been able to formulate through the collecting of information from the industry. When it comes to arbitration, two parties are negotiating a growing fee, and the arbitrator will be the mediator of the negotiations because the contract has been referred to the arbitrator, having reached a stalemate—a Mexican stand-off.

The arbitrator will call upon each of the parties to give their particular position. The processor will say that they are not able to pay X number of dollars, and the grower will say that he or she needs a certain amount to grow the chickens. Then the arbitrator will say, 'Look, I need to consider the information submitted to me by the two parties negotiating the contract.' But, in addition, the arbitrator will seek some other information from the registrar. The information that the registrar provides will not be used in a manner that will bring into question the accuracy or the completeness of the information, because the registrar, after all is said and done, is an employee of the government and is doing a job—a public duty, in the public interest—for everyone, and his or her work in the department will not be used as a stumbling block by either party in the negotiations through the arbitration system. That is my understanding of the thrust of this measure. I think it is quite sensible not to bring a public servant into the arena of the commercial reality of negotiations and the arbitration process, otherwise we will involve an employee of the government in commercial negotiations, and I do not think that that is proper.

The Hon. P. HOLLOWAY: I will clarify the remarks that I made earlier. Obviously, there will be ample opportunity within this process for submissions to be made to the registrar about the published information. It is really at that level, I think, where it is important that there be plenty of discussion about the accuracy of the information. I would not want my earlier comments to be taken to suggest that the government does not believe the registrar should not get the information correct—it is important to get it correct—but there will certainly be plenty of opportunity for submissions on that matter.

I also point out that the arbitrator may take in as evidence other information provided by both processors and growers: it is not necessarily limited to the information provided by the registrar. If this process is to work (as the government would hope it will) in terms of reducing disputes, one would hope that, as a result of the process, the registrar will, following these submissions, be able to present accurate information that will provide a suitable signpost for participants in the industry to be aware of the trends in the industry and what are the prices and costs on efficient farms.

The Hon. J.F. STEFANI: There is an additional point that I wish to make. I understand that the thrust of this measure is the fact that the arbitrator must take into consideration the benchmark cost, which I take it would be gathered by the registrar in the process of his or her duties.

So, if there is such a disparity in the dispute at arbitration, and one party is offering a pittance whilst the other is asking the world, in establishing the final arbitration benchmark the arbitrator will have given due consideration to the information that is being published and gathered by the registrar which hopefully, and surely, will include the benchmark costs of the growers to grow chickens.

The Hon. CAROLINE SCHAEFER: I have been asked whether I am happy with that: I am not. I have said all along that I do not think this legislation will work. I think that within three years we will be back in this place trying to resurrect what is left of the chicken meat industry. However, since the industry, the government and everyone else in this place seems to agree with this measure, I will not prolong the argument any longer.

Amendment carried; clause as amended passed.

Clause 21.

The Hon. P. HOLLOWAY: I move:

Page 14—

Lines 31 and 32—Delete 'fifth anniversary of the day on which agreement was reached or an earlier'.

Line 34—Delete 'period, not exceeding 5 years,' and substitute 'specified period'.

The five-year plus option of a further five years' cap on the length of growing agreements was originally inserted as a pro-competitive measure that reflected the length of time that the ACCC would normally authorise contractual arrangements such as this. The present ACCC authorisation of Inghams collective negotiation arrangements is for a period of five years. At the request of the processors and the National Competition Council, this restriction is being removed. The government considers that its removal does not harm the overall scheme.

Amendments carried; clause as amended passed.

New clause 21A.

The Hon. CAROLINE SCHAEFER: I move:

Page 14, after line 38—Insert:

Division 5—Exclusion notices

Exclusion notices

21A. A processor party to a growing agreement with a grower who intends to exclude the grower from negotiations for a further growing agreement with the processor must, at least 6 months before the expiry of the growing agreement, give the grower an exclusion notice.

This is consequential to previous debate on exclusion notices, and I remind honourable members that I have removed the word 'tied' from this provision.

New clause inserted.

Clause 22.

The Hon. CAROLINE SCHAEFER: I move:

Page 15—

Lines 10 to 12—delete paragraph (c)

This is identical to an amendment by the government, and essentially removes the right to strike, the right to remove services. As I mentioned in my second reading speech, there are considerable animal welfare issues related to this particular clause, and I believe that there are sufficient protections for the growers, particularly now within this bill, without the need to withdraw services.

The Hon. P. HOLLOWAY: We support the amendment. Of course, we assume the word 'tied' will be deleted wherever occurring. While the government does not consider that clause 21(1)(c) added any additional anti-competitive element beyond the existing collective negotiations, the National Competition Council has asked that it be removed as part of its NCP assessment. The processors have said that the exemption for exclusionary conduct by growers should be removed as it constitutes giving the growers what they call a 'right to strike'. The government's position is that this

exemption was inserted in the bill simply to provide a technical protection against the collective negotiations being attacked. Under the exclusionary conduct primary boycott provisions of the Trade Practices Act, a strike as such would expose the growers to significant damages for breach of contract.

Negotiations take place during the last months of the previous contract, as well as other detriments. The government considers that protection will still be available through clause 22 (1)(b), and I indicate that the government will react strongly if there is a Trade Practices Act challenge to the operation of the bill. The removal of clause 21(1)(c) will thus remove any collective boycott activity, and emphasises the importance of compulsory arbitration as a circuit breaker for disputes arising during the negotiations of contracts.

Amendment carried; clause as amended passed.

Clause 23.

The Hon. P. HOLLOWAY: I move:

Page 17—
Line 7—delete 'tied' wherever occurring.
After line 8—Insert:
(3) This Part does not apply to a grower if the grower indicates, by written notice to the processor, that the grower no longer wishes to be a member of a negotiating group with the processor.

The first amendment is consequential. This addition makes it clear that Part 7—Compulsory Mediation/Arbitration is not available to a grower or a processor who is unregulated even if the growing agreement was originally negotiated through the collective agreements. The scheme of the bill is to differentiate between unregulated growers—those who have individual contracts and as such are not members of collective negotiating groups—and those regulated growers who are members of a collective negotiating group. Thus, a grower who voluntarily exits a negotiating group under clause 11(3)(a)(ii) is excluded from access to compulsory mediation/arbitration of disputes arising from the terms of the growing agreement.

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

Amendments carried; clause as amended passed.

Clauses 24 and 25 passed.

Clause 26.

The Hon. P. HOLLOWAY: I move:

Page 19—delete 'tied' wherever occurring.

Amendment carried; clause as amended passed.

Clause 27.

The Hon. CAROLINE SCHAEFER: I move:

Page 19, after line 17—insert:
(ba) there has been unreasonable delay on the part of the grower in seeking mediation; or

This amendment deals with disputes relating to the exclusion of growers, and it seeks to stop unreasonable delay on the part of growers in seeking mediation. This is an attempt to have mediation of a dispute commenced in a timely fashion so that the dispute can be resolved before the current growing agreement expires.

The Hon. P. HOLLOWAY: The government opposes the amendment, because we believe that essentially the amendment is unnecessary. If the conduct that the new clause refers to was unreasonable, the Registrar could take it into account under subclause 27(2)(c) which provides:

there are other good reasons why the dispute should not be referred to mediation.

It could also be taken into account under subclause 27(2)(a) which states that 'the grower has not undertaken negotiations in good faith.' We believe that existing subclauses (a) and (c) of clause 27(2) adequately cover the situation.

The Hon. IAN GILFILLAN: The Democrats agree with the argument of the government that this is an unnecessary extra clause.

The Hon. A.L. EVANS: I support the opposition on this one. A registrar can refuse to refer the dispute to mediation if there is unreasonable delay by the growers to seek mediation.

The Hon. J.F. STEFANI: I support the government.

Amendment negatived; clause passed.

Clause 28.

The Hon. P. HOLLOWAY: I move:

Page 20, line 12—delete 'tied'.

Amendment carried.

The Hon. CAROLINE SCHAEFER: It has been clearly indicated through previous debate on this matter that I will lose my amendment on file to delete clause 28, so I will not proceed with it.

Clause as amended passed.

Clauses 29 to 32 passed.

Clause 33.

The Hon. P. HOLLOWAY: I move:

Page 21, line 32—delete '6' and substitute:
5.

This relates to the number of years for the review requirement. In other words, we will replace six years by five years for the review requirement and sunset the act after six years with a discretionary extension of up to an additional two years. The National Competition Council has asked that the act be sunsetted after six years of operation. This means that the review of the operation of the act previously taking place after six years of operation now occurs in the year prior to the termination of the act to enable parliament to have information upon which to decide whether the act is to be re-enacted and, if so, in the same form or an amended form. In other words, it is a fairly standard competition council provision.

There is power for the Governor by proclamation to extend the operation of the act for a further two years. This power could be used to keep the act in operation for up to an additional two years if the review, particularly any public consultation, takes longer or if parliament requires additional time to give the matter adequate consideration. The review after five years still allows sufficient time to elapse to enable a meaningful view to be taken of the operation of the industry under the auspices of the act. We believe that a three-year review period, which is what the Hon. Mrs Schaefer was intending to move, would not allow sufficient time under the act's operation to provide a broad enough picture of the impact of the act upon the industry. So, I am moving the amendment to follow that NCC request to reduce it from six to five, but we certainly do oppose reducing it down to three.

The Hon. CAROLINE SCHAEFER: I am convinced by the eloquence and passion of the minister and I will not proceed with my amendment.

Amendment carried; clause as amended passed.

New clause 34.

The Hon. P. HOLLOWAY: I move:

Page 21, after line 35—Insert:
Expiry of Act.
34. (1) Subject to a proclamation under subsection (2), this act will expire on the sixth anniversary of the commencement of this act.

(2) The Governor may, by proclamation, postpone the expiry of this act for a period not exceeding two years.

I have essentially covered the reason for this new clause in my earlier comments.

The Hon. CAROLINE SCHAEFER: We support the new clause.

New clause inserted.

Schedule 1.

The Hon. P. HOLLOWAY: I move:

Clause 2, page 22—Delete 'tied' wherever occurring

This is consequential.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Clause 2, page 22, line 7—After 'clause' insert:
or were parties to such an agreement on or after 4 December 2002.

I have moved my amendment in an amended form, replacing the original date with 4 December 2002. We have been very concerned that no growers slip through the gap due to some argument that contracts were not valid and were therefore not affected by the legislation. The original thinking was that we would start from 30 September, but in consultation with better informed minds than mine it has been suggested that 4 December was the date at which the legislation was introduced, so it is valid to—

The Hon. Caroline Schaefer interjecting:

The Hon. IAN GILFILLAN: I would love to pick up the interjection, but I will not.

The CHAIRMAN: Interjections are out of order.

The Hon. IAN GILFILLAN: Indeed, sir; I wanted to avoid that admonition. Under the circumstances we believe that it is not only fair but also essential that the effects of this legislation apply to the parties which were involved in the contracts at that date, 4 December 2002. The amendment is in two parts. The clause, as amended, would provide:

If a processor and a grower are parties to a growing agreement immediately before the commencement of this clause or were parties to such an agreement on or after 4 December 2002—

(a) the agreement, if in force immediately before the commencement, will be taken to be a growing agreement collectively negotiated under Part 5;

That is the form of the amendment.

The Hon. P. HOLLOWAY: I can understand why the Hon. Mr Gilfillan has moved the amendment. Enacting retrospective legislation is not the normal practice of parliaments, unless special reasons exist. It should also be noted that only if the growing agreement is still in force (that is, it has not been lawfully terminated) that the commencement date will be deemed to have been negotiated as a collective negotiating group agreement under Part 5; that is, the effect of the amendment proposed by the Hon. Ian Gilfillan does not reactivate growing agreements that have been legally terminated. I think that point needs to be made.

However, I indicate to the committee that, whilst the government is inclined to support retrospectivity at this point, it is my wish that this bill be debated before the other house next week and be enacted as soon as possible. However, I am aware that there is a very heavy workload before the house next week. Of course, the other place is not sitting this week and will be sitting next week only, and, as it has a significant amount of legislation to deal with, it might be difficult to get this bill through. If that is the case, I indicate that we will look at this matter when the bill goes to the other house and, if there is any evidence that it is necessary to backdate the provisions because of any behaviour that may have been shown in relation to this, I will consider it. I put that on the record.

The other point I should make is that it is arguable that if this early commencement is not retrospective there is ample precedent to argue that choosing a date is simply referring to an existing fact upon which to commence the application of future growers' rights and processor obligations. No offence or penalty is involved, as the relevant processor obligations under the act are deemed to have been carried out, and I think that all needs to be taken into consideration. As I have said, I will give this matter further consideration when the bill gets down to the other house and, if, for some reason, we cannot get it through in the very narrow time frame next week, or if there is evidence that the behaviour of processors—

The Hon. Ian Gilfillan: Is the minister supporting the amendment, because I cannot work it out?

The Hon. P. HOLLOWAY: I am saying that I will not support the amendment at this stage, because retrospectivity is not normally supported in relation to these things, even though there are grounds for it. I am saying that, if we cannot get this bill through quickly, I will have a look at backdating the provisions.

The Hon. J.F. STEFANI: I indicate my strong support for the amendment proposed by the Australian Democrats and my colleague the Hon. Ian Gilfillan, and I will very briefly give my reasons. The amendment seeks to validate the position of the growers who wish to be part of a collective process. It does nothing else than allow the validity of those growers who existed as at 4 December to act, and today's amendments have been promoted and supported by the majority of members in this chamber. We made that provision effective and, if we do not have that provision in this measure, we will disfranchise some of the growers who have been terminated.

The parliament cannot enter into the argument of whether a contract was legally terminated or otherwise and it cannot deliberate on the legal issues that encompass a contract, but we do have the power to give legitimate growers who continue to be growers from 4 December to whenever and who wish to be part of the collective process of negotiation—there are no guarantees about being provided with a contract or otherwise—the opportunity to remain part of the group by ensuring that we say so. That, simply, is what this amendment does. I strongly support this view, because if we take that right away we leave a number of growers high and dry.

The Hon. P. HOLLOWAY: I will explain the point I was making earlier because I do not think I completed the argument satisfactorily. It is noted that only if the growing agreement is still in force and has not been lawfully terminated at the commencement date will the agreement be deemed to have been negotiated as a collective negotiating group agreement under part 5. That is the effect of the amendment to clause 2(1)(a). Thus, the proposal does not reactivate growing agreements that have been legally terminated—that would be retrospective—however, even if the agreement has been lawfully terminated the grower is still eligible to be a member of the collective negotiating group. Nevertheless, that grower would be without a contract, and the processor may decide not to offer a section 16 statutory notice to that grower and thus not deal with that grower again.

The part 8 compulsory mediation and arbitration arrangements may apply to such a grower if that grower is not offered a new contract (preceded by a section 16 notice) at the time of generally negotiating a group contract renewal; that is, where the dispute relates to a grower's exclusion from

a group of growers negotiating a further growing agreement with the processor (clause 26(2)(b)). So, there is a problem with playing around with the dates because it is a fairly complicated arrangement.

The Hon. IAN GILFILLAN: It seems to me that the minister in this context is making a meal out of something which virtually does not exist. I have not heard him espouse the mischief that this amendment could do. At least it is a safeguard. I think the growers in this combination are entitled to have a sense of security: there can be no debate as at which date a valid contract and agreement locks into the benefits that this legislation is offering.

The Hon. P. HOLLOWAY: I do not think there is any mischief in it—I am not suggesting that—but I would not want growers to think that this would provide them with a benefit that does not exist. I am relaxed about this; I can live with it either way. It is really a question of principle in relation to retrospectivity and how that might be regarded, but I do not know that passing this amendment—

The Hon. Ian Gilfillan interjecting:

The Hon. P. HOLLOWAY: That's true; I take your point. As I said earlier, it is my wish to get this through as quickly as possible.

The Hon. CAROLINE SCHAEFER: The Hon. Ian Gilfillan has, in part, outlined the reason for his amendment: that is, that this legislation has been hanging around for so long that a number of growers are now out of contract and have been put on a batch-by-batch basis, and naturally they seek some sort of security. In principle, I do not support retrospectivity. There is a transitional provision within this bill as it now stands. I understand that, in the time during which this bill has been under consideration, some of the people who were out of contract have now contracted with another processor—certainly it is a small number but some have done that. This amendment would therefore have the effect of allowing people who have already contracted with another processor to be part of the collective bargaining with the major processor. I am a little like the minister: if this amendment is acceded to in another place I will not object strongly but, at this stage, I do not support the amendment.

The Hon. J.F. STEFANI: I do not wish to prolong the debate on the issue but I do urge the government to consider the position carefully. I commend the government, because it has acted fairly quickly on suggestions that were brought to it, and I am extremely grateful that that has occurred. However, equally it is important that we recognise that the growers, as a collective group when the bill was introduced, are the same growers who will be affected by the measures we have implemented. I just urge the government to reconsider.

Personally, I am against retrospectivity but this measure does not provide anything other than a comfort to the growers to know that, if they were a part of a group as at 4 December, they will be part of the negotiation process that we have enacted through the amendments to this legislation. So, they are still part of that group. The legality of their contracts is not what this parliament or this legislation is about. If their contracts have been terminated that is a story for another place, that is, a court or other jurisdictions. The government has done some very good work with this legislation but I would like the government to think about it very seriously. I know that we will not get an answer today, but perhaps the minister can commend the proposal.

The Hon. P. HOLLOWAY: At this stage I will oppose the amendment for the reasons the shadow minister put rather well. There may be some complications in relation to it. I will look at it between now and the other place. We would hope that the bill gets through this session but, with only one week left on the timetable in the lower house, things will be tight. We will look at the starting date carefully when the bill gets to the other place.

The committee divided on the amendment:

AYES (6)

Evans, A. L.	Gilfillan, I. (teller)
Kanck, S. M.	Reynolds, K.
Stefani, J. F.	Xenophon, N.

NOES (13)

Dawkins, J. S. L.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stephens, T. J.
Zollo, C.	

Majority of 7 for the noes.

Amendment thus negatived.

The Hon. P. HOLLOWAY: I reiterate the point that the government will look at this situation. I think that making an amendment retrospective may create difficulties. It could well make the situation messy, but I will have a look at it before it gets to the other house.

The CHAIRMAN: I have another amendment indicated to this schedule. Again, it is in the name of the Hon. Mr Gilfillan: schedule 1, clause 2(1)(a), page 22, line 8.

The Hon. IAN GILFILLAN: I did indicate, when I originally moved, that they were part of the package, so I will not proceed.

The Hon. P. HOLLOWAY: I move:

Page 22, line 13—delete 'an individual agreement or'

The reason for the amendment is that from the time the transition measures were made available to them for consultation in October-November 2002, it is clear from information obtained from growers that the processors were gaming the scheme by artificially differentiating contracts. The impact of that would have been the possibility of processor litigation against any decision by the regulator not to classify a particular contract as individual. In order to avoid that situation, the concept of individual contracts has been deleted. It is noted that a grower who truly has an individual contract is able to give notice and exit a collective negotiating group. Thus the broad scheme of the bill, which gives the grower the choice whether to deal collectively or individually with the processor, is honoured in the transition measures.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Clause 2, page 22, lines 14 to 16—delete subclause (3)

I have already explained this amendment.

Amendment carried; schedule as amended passed.

Schedule 2.

The Hon. CAROLINE SCHAEFER: I move:

Clause 11(1), page 25, lines 22 and 23—delete subclause (1) and substitute:

(1) An appeal lies to the Administrative and Disciplinary Division of the District Court from an award or a decision not to make an award.

This amendment seeks to allow an appeal. As I understand the bill currently, it allows for no appeal on the decision of the arbiter and the only appeal at this stage is to be on a question of law. This amendment seeks to allow an appeal to

the Administrative and Disciplinary Division of the District Court, and it allows for an appeal from an award or a decision not to make an award. It would have more far-reaching effects on the appeal process. It results from the proposal that decisions of arbiters should be able to be appealed and not just questions of law, and that these appeals should go to the District Court rather than to the Supreme Court.

My reason for that is that some of the most heartbreaking stories I have had put before me since becoming a member of parliament have been by people who, for whatever reason, believe that they have been given a bad decision by the government of the day from a particular department and have no opportunity to appeal that process. Without going into details, that relates to a number of issues, but particularly one tragic issue concerning native vegetation. As I say, I will not go into that, but the fact that that person has had no right of appeal certainly has affected my judgment. I believe that there should be an appeals process for as long as possible. I have chosen the District Court as opposed to the Supreme Court for the simple reason that obviously the Supreme Court is a much more expensive process and therefore very often out of the reach of ordinary people. I believe that, as I say, one should be able to appeal for as long and as often as possible and on as much as possible in any piece of legislation. This particular amendment is a point of principle for me.

The Hon. P. HOLLOWAY: I indicate that the government will oppose the amendment. Generally all arbitration schemes provide for a strictly limited appeal from the arbitrator's award, thus all appeals under the Commercial Arbitration Act are under the Supreme Court and are restricted to questions of law. Section 38 of the Commercial Arbitration Act provides a general scheme for appeal to the Supreme Court on any question of law arising out of an arbitral award only. That scheme is also reflected in schedule 2, clause 11 of the bill. Further, the Commercial Arbitration Act sets a high threshold for interfering with an arbitral award: it requires a manifest error of law on the face of the award. Existing schedule 2, clause 11 is more liberal, only requiring an error of law.

The important point is that appeals on questions of fact could be used to cause delay and would favour the party with the most financial resources. If the arbitrator gives undue weight or insufficient weight to any evidence, disregards the evidence or misrepresents it, or, if the evidence was relied on and it was irrelevant in the circumstances, that could amount to an error of law for the purpose of the Chicken Meat Industry Act and go to appeal.

Of course, an error of law would include failure by the arbitrator to address the statutory criteria that the arbitrator must take into account. So, I believe that we should not support the Hon. Caroline Schaefer's amendment because, essentially, it could be used to cause significant delay and, as I said, load the dice in favour of those parties that have the greatest financial resources to use the legal system.

The Hon. IAN GILFILLAN: I indicate Democrat opposition to the amendment. As I understand the consequences of the amendment, if the challenge which must be undertaken by the arbitrator is successful, the administrative and disciplinary division of the District Court then becomes an arbitrator of second rank in that the whole of the earlier deliberations would be subject to argument and potential revision. I believe that could be open to misuse and unnecessary delay of proceedings, and I think the bill as currently drafted is a safer structure.

The Hon. J.F. STEFANI: I, too, oppose the amendment.

Amendment negatived; schedule passed.

Title passed.

The CHAIRMAN: I commend all honourable members for the professional way in which the passage of this bill has been conducted. It has been a pleasure to chair the debate, and I thank members for their earnest considerations during the committee stage.

Bill reported with amendments; committee's report adopted.

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

That this bill be now read a third time.

I also thank members for their patience in relation to this bill. There have been a number of amendments, but I echo the comments of the Hon. Ian Gilfillan that the bill is a much better bill for the extra consideration that has been given to it over the past six months.

Bill read a third time and passed.

ADJOURNMENT

At 6.05 p.m. the council adjourned until Tuesday 8 July at 2.15 p.m.