LEGISLATIVE COUNCIL

Thursday 10 July 2003

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11.30 a.m. and read prayers.

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15 p.m.

Motion carried.

APPROPRIATION BILL 2003

Adjourned debate on second reading.
(Continued from 8 July. Page 2721.)

The Hon. SANDRA KANCK: I rise to address the Rann government's budget—its second since coming to office. The handling of the budget was a politically sophisticated performance by the government, at least from the perspective of public relations and media management. The week or so leading up to the release of the budget produced a raft of good-news stories of new spending initiatives, based on 'official leaks'. I do congratulate the government on one initiative in the budget that was not part of that raft of good-news stories (and, pardon my cynicism, but it was probably not because it would not have been a winner with the law and order lobby with which this government tries to curry favour): it was the money allocated to dealing with health, education and other infrastructure on the Pitjantjatjara lands.

Commentary on budget day was dominated by the politically savvy water levy. But, despite the water levy, ultimately, the document was a genuine disappointment for those looking for a renewed investment in the social and economic infrastructure of South Australia. I believe this failure to reinvest in the state's infrastructure is rooted in the collapse of the State Bank more than a decade ago. There can be little doubt that the loss of $3.5 billion on the watch of the Bannon Labor government has left a deep scar on the Labor Party in this state. As a consequence, we now have a Labor government obsessed with debt reduction and fearful of taking positive action. Nothing else can adequately explain the decision by Treasurer Kevin Foley to slash a further $500 million from the state's modest debt portfolio rather than invest that money in physical and social infrastructure development.

State debt, as a percentage of gross state product, is at an historical low: 7.5 per cent a year ago compared to, say, 61.2 per cent in 1949-50. Members will recall that that was the Playford era which so many people longingly look back to as the golden days of South Australia's economy. A more recent figure in 1991 at the heart of the State Bank debacle is 23.4 per cent; so 7.5 per cent is a very good figure. Long-term interest rates are at an historical low, and South Australia has been starved of economic and social infrastructure development for more than a decade following the collapse of the State Bank.

With increased revenue flowing into the Treasury's coffers we could have anticipated a modest program of renewal; instead, we saw $500 million ploughed into further debt reduction. It is ironic that the Labor government's memory of the State Bank is now starving the state of much-needed government investment. We must break this final shackle that was created by that calamitous event—it is history! This is not a call for the return of profligate government spending in order to buy the loyalty of voters. Rather, this is a call for considered targeted reinvestment in the areas of greatest physical and social need confronting our community. However, this is an opportunity that this government has missed.

The upshot of the government's failure to invest is that we will see more one-off levies (such as the River Murray levy) to fund the things that South Australians believe are important. Low interest rates have been a feature of the Australian economy for a number of years, but no-one is able to predict when they will rise. Therefore, the state government is taking a gamble on this. The time is right now for the government to borrow and put money into programs that will produce a better South Australia. Instead, the government is fixated on obtaining a AAA credit rating. In its budget submission this year, the PSA makes the following point:

> The importance of credit ratings and the capacity of ratings agencies to present accurate judgments of the fiscal and economic performance of governments has been greatly exaggerated.

The submission goes on to state:

> Ratings are redundant in the presence of accurate and transparent budget information. To the extent that the concerns of ratings and agencies and bondholders diverge from those of the public as a whole, ratings provide a positively misleading guide to public policy [and] the endorsements of ratings agency should not be regarded as a central objective of policy.

If only our Treasurer and Premier were listening. The Democrats want a sustainable economic framework for a socially just South Australia. Social justice would require the state government to look for ways of easing the burden that skyrocketing electricity prices have placed on low income earners. As we know, household prices have jumped an average of 25 per cent this year, yet the budget makes no extra provision to alleviate the genuine hardship this increase is inflicting on the poorest in our society.

An honourable member: And the water rates.

The Hon. SANDRA KANCK: And the water rates; that's true. We all know that the terrible situation of the electricity rates hike is the result of the Liberal Party's deceitful and disastrous privatisation of ETSA. However, that fact does not remove Labor's responsibility to provide funding in its budget to help those squeezed by rising electricity prices.

How we deal with victims of sexual assault is another area that is in urgent need of additional funding. We need an integrated, cost-effective and timely service for people who have suffered the trauma of sexual assault, but that is not available at present. In particular, the lack of availability of follow-up counselling for women who have experienced sexual assault means they have to wait for weeks for a session with a counsellor, and that puts unacceptable and unnecessary strain on them and their families.

Workers in this sector are dealing, on a daily basis, with people whose life has been blown apart, and they require the support of the government to be able to perform their roles in a timely and professional manner. To have been a victim of assault is terrible enough; to then be abused by a system which insists that, after a period of six weeks, they must wait in line—perhaps for months—to have the expert counselling they desperately need is a damning indictment of our

bureaucracy's inability to respond to human trauma. Victoria and New South Wales do it better than South Australia. It is an area that requires a rapid injection of caring dollars and one in which the government could have taken some positive steps forward, but the budget's timidity has prevented this. It surely would not have busted the budget for some extra money to be provided for more counsellors.

In terms of prevention being better than cure, the Democrats would have welcomed funding for the Anti Domestic Violence Education Program 'Keep Safe, Stay Cool'. During the term of the previous Liberal government, it received $25 000 from the Department of Human Services, which allowed it, through peer education, to deliver two x 100 minute sessions for years 8 and 9 students in three southern suburbs high schools. It is such a great program that it deserves wider delivery throughout our school system.

I had correspondence with the minister for human services in the former Liberal government about the need to expand this program throughout the school system in South Australia. We know that one in eight students will experience violence in a relationship before they complete their schooling; it is something that desperately requires intervention. Figures from the Australian Institute of Criminology reveal that three women are killed in Australia every fortnight due to domestic violence, so it is something that has a social and an economic cost.

Last year, an evaluation of 'Keep Safe, Stay Cool' showed that there is significant attitudinal change amongst the students exposed to the program—and that is with just two x 100 minute sessions. With that degree of impact, imagine what positive change could be achieved in our society if this program were to be extended throughout our whole secondary school system. We could have a generation of young people going into permanent relationships with a zero tolerance attitude to relationship violence, and all the positive benefits that would flow on through to their children would be an investment well spent. However, 'Keep Safe, Stay Cool' will have to go cap in hand just to renew funding at existing levels in the limited number of schools in which it operates. It is exactly the sort of thing that the Generational Health Review is advocating, and it is a real example of a strong and positive primary health initiative.

A government with a bit of vision would grasp the opportunity to fund a program like this. Imagine what $100 000, instead of $25 000, could do for this program. However, the shadow of the State Bank creates timidity in this government and prevents that from happening. Lack of funding for the construction of a new campus for the Barossa Area Health Service is indicative of the government's unwillingness to allocate funds for much-needed physical infrastructure upgrades in regional South Australia.

Serious issues were raised about the unacceptable state of the Angaston and Tanunda hospitals in a review of the health services conducted in 1995 by KPMG. In November 2000, the then minister for human services, (Hon. Dean Brown), announced a new site at Nuriootpa for the health services. The Barossa Valley is arguably South Australia's fastest growing region, with a projected population increase of 8 per cent over the next five years. Urgent infrastructure spending is needed to ensure that health services of a high standard are available for residents of that region to access.

In its current unacceptable form, Barossa Area Health Service Inc. is not able to offer the people in the Barossa Valley the state-of-the-art facilities that a modern hospital should. The Rann government must commit to strengthening regional health services, and immediately set aside funding for the long overdue construction of a new campus for Barossa Area Health Service Inc. The land is there; it is cleared—and it has been for a number of years—yet here it is eight years after the KPMG report and we do not even have the builders' plans drawn up.

In relation to the transport portfolio, the Rann government's announcement of modern tramcars for the Glenelg tram goes only part way towards what is needed. After yesterday's derailment of the tram in Victoria Square, I commend the transport minister for the decision to upgrade track—yet there is no indication of future development of the line. Extending the tram from Victoria Square to the railway station to begin integrating that service with the rest of the metropolitan rail system could be the beginning of the renewal of the whole system. It does not have to be—and cannot be—done overnight, but it should be commenced. Now is the time to begin. That type of investment will save the state money in the long run.

The final goal of an efficient extensive light rail network for Adelaide would take the strain off our roads. It would be good for the environment, good for equity in the community and good for economic development in metropolitan Adelaide. The lack of investment in rail is not confined to metropolitan Adelaide. The abandoned rail network between Millicent and Wolseley is an example of funds being denied to a much needed regional infrastructure project. To let this rail corridor lay idle is a great waste. A sensible investment of government funds would see the rail link in use again and would bring economic and environment benefits to the South-East of the state—yet nothing is happening.

Governments must look beyond purely economic imperatives when allocating budget funds. The Ngarrindjeri people suffered greatly during the Hindmarsh Island bridge saga. Opponents of the bridge were slandered and libelled in pubs, the media, a flawed royal commission and this parliament. Their offence was trying to protect their traditional culture. Justice Von Doussa in his decision two years ago vindicated those beliefs, and the recent book, *Meeting of the Waters*, by Margaret Simons—which I thoroughly recommend to all members in this council—shows how wrong the detractors got it. We need to heal the gaping wounds that this affair has inflicted upon the Ngarrindjeri people.

The Ngarrindjeri people have been calling for funds for a ferry between Hindmarsh Island and Clayton—what they call the reconciliation ferry. I had correspondence regarding this matter towards the end of 2001 with the Hon. Diana Laidlaw (then minister for transport), and she was certainly not antagonistic towards the idea. However, I do note that last year the Minister for Aboriginal Affairs and Reconciliation (Hon. Terry Roberts) stated in this place that the government would not fund such a ferry. But, this is a new financial year and I had hoped for new beginnings. Surely, it would not have been too much to have included money for this in the budget. It would have been a powerful statement about reconciliation. In conclusion, this is a budget of disappointment and missed opportunity. The Democrats will watch with great interest to see whether the next 12 months produces a change of direction.

The Hon. D.W. RIDGWAY: I also rise to address the budget handed down in May this year by the Treasurer (Hon. Kevin Foley). I was intrigued by the efforts of the Rann Labor government in finally demonstrating that the Labor Party is capable of understanding the concepts of deficit,

surplus and credit ratings. After reading the budget papers and various other documents of an economic nature to which this government has committed itself, I am still left to wonder what exactly this government is doing to help the state move forward economically. Of course, there is plenty of rhetoric and, indeed, part of the problem is that there is so much rhetoric that one has to wonder if any of it, let alone some of it, is actually achievable.

First, I point out that this government is taking the credit for the surpluses it did not create. I will talk more about the surplus push later, but I start my discussion of the budget with the statement that this government has done nothing to generate this budget surplus except rearrange the figures. As pointed out in the Australian *Financial Review* of 30 May 2003, the $312 million surplus that Labor posted for the 2002-03 budget:

> . . . is not quite as great as it seems. The revenue surge includes $230 million in special dividends from state financial institutions. As Access Economics points out, this is essentially window-dressing inherited from the previous government.

The remaining portion of the surplus was possible through good economic growth in South Australia over the previous two years, largely based on two highly profitable seasons for primary industries operators. So, in fact, the government cannot claim to have done anything very much to create the surplus except benefit from two years of favourable results and economic variables outside the government's control—in other words, through good luck.

What is most interesting about the surplus for 2002-03 is that the Treasurer has not only fed surplus fever to the media and the public, but he seems to have convinced himself of his own rhetoric and has taken the concepts of deficit and surplus to heart. He has set himself the noble and lofty goal of aiming to reduce the state's debt by nearly $1 billion over the next few years. However, as the *Financial Review* pointed out, also on 30 May, this goal may turn out to be a curse, because the fact is that the economy is set to slow again in the next few years, as are the windfall revenues obtained through the property market. Moreover, the *Financial Review* points out the following:

> . . . growth in operating expenditure in the coming fiscal year will be a solid 4 per cent. This will have to slow to less than 2 per cent if the government is to meet its objectives on present revenue.

So, in effect, we have a situation where the Treasurer is bent on creating surpluses when the economic growth of the state is about to downturn. So, one might ask: how will the Rann Labor government achieve its election promises? Since the Rann government already has broken most of its election promises, we may well assume that these pledges are of no relevance any more. What about the needs of the people of South Australia and what about investment in new infrastructure?

The budget of 2003-04 makes this very clear: the Rann government is funding its agenda through increased rates, fees, charges and new taxes. Ordinary South Australians will be digging even deeper into their pockets to help the Rann government meet its objectives—starting with increased costs to register a vehicle, higher apprentice and trainee fees, the water tax and increased public transport ticket prices. The expected increase in revenue for this year is around $600 million. So, while the Rann government profited from good luck to create a surplus last year, it seems that this year it plans to create one—or, indeed, force one—through grabbing more money out of the pockets of ordinary South Australians. That is hardly noble, and not exactly surprising given its track record on economic management.

But what makes this push to create surpluses even more interesting is that it flies in the face of the recommendations of the Economic Development Board which it created to foster economic development in this state. While the Treasurer has set himself a noble goal of aiming to reduce the state debt over the next few years, this goal seems to be in direct conflict with the promises of the government to triple exports and to commit to a program of economic development as outlined in the report of the Economic Development Board. I might be wrong (and I certainly hope that over the next year the government can prove that I am), but it seems that a government promising to embark upon a serious and long-term program for the future and long-term growth of the state's economy in a climate projecting reduced growth, while also aiming to generate budget surpluses over the next few years, has its wires and promises severely crossed.

It may be self-evident, but in order to create economic growth the state has to invest in its own economic development. The focus of the Treasurer on the credit rating of the state, small deficits and even surpluses misses the point completely. This agenda is evidence of the Labor Party's guilty conscience. It is playing a political game with the economics of our state. The $9 billion deficit the Liberal Party inherited last time Labor left government will not be righted or forgotten by creating surpluses now.

As the Economic Development Board pointed out in its report, spending and debt are not the problem—in fact, the board recommended increased public spending—but sound economic management and prudent investment in our state's future and long-term growth are where the priorities of any government should lie. The tragedy of the Rann Labor government's shorted-sightedness is that it is South Australians who will suffer from this. I think South Australians deserve better, frankly. The games of politicians should not determine the quality of opportunities that my children will inherit in this state in years to come.

Where exactly, besides bluffing surpluses and fixing figures, is the Rann government going wrong? In my opinion, it is failing to invest in the wealth production of our state, starting with the primary industry and our regional economies. On average, the percentage of exports from South Australia coming from rural and regional areas is about double that of other states. Our regional economies are vital to the state's economy. We have a worldwide reputation for our wine, grains, food, wool and minerals, yet, in the last year, the industries that attract revenue and interest in our state have been consistently overlooked by this government. These are potential growth areas and areas where we can consolidate our position. This is where we already have expertise and considerable investment. For example, South Australia has enormous potential in aquaculture. Our pristine coastline and cool waters hold enormous potential for the development of a world-class aquaculture industry, which is already evident from the success of our tuna fish industry at Port Lincoln. The industry is well in place and it is up to the government to provide investment and infrastructure.

This government has made cuts to the FarmBis program and the SARDI program. It has also redirected $16.5 million from the regional development infrastructure fund and taken $20 million from the regional housing strategy. This government talks of tripling exports while undercutting its promises to dairy farmers to help fund the rehabilitation of their land. This government talks of tripling exports while ignoring the

fact that the regional roads (which it hopes will carry these exports) are in such poor condition that they cannot sustain the heavy freight. While the mass management program in this state is so antiquated, the Victorian companies have a significant competitive edge. This government talks of being committed to the aims of the Economic Development Board, while of the $39 million it has earmarked for economic development $31 million is old money recycled from the Liberal Party's industry investment and attraction fund.

One is left to wonder how far an extra $8 million will go towards implementing any of the board's recommendations and, indeed, how serious this government is about implementing the board's ideas with only $8 million in new funds. I was interested to note that it is only now that this government has begun a consultation process with the seafood industry, that is, after the suggested introduction of the boat levy in the budget some six weeks ago. Maybe the government has woken up to the benefits of consulting with industry leaders and stakeholders.

The Economic Development Board has virtually given this government a formula to create long-term economic growth. The formula is relatively simple: it boils down to the concept that we need to invest in the things that we do well. Yet it seems in this budget that the Rann Labor government stumbled across a surplus last year and, despite the pleas of the public and the Economic Development Board to invest in our future, it wants to create another one this year. With this budget, it is seeking to create another surplus by dipping into the purses of ordinary South Australians, the tragedy being that it is holding back on the real investments this state needs to make to meet its own promise of tripling exports within the next 10 years. I am still left to wonder what the economic priorities of this government are, besides the public relations management of phoney surpluses. It is simply not clear. The report of the Economic Development Board says one thing; the Treasurer touts another line; and Access Economics points to another reality altogether.

This government not only makes multiple conflicting and misleading statements in a frantic effort to prove themselves 'economic managers' but, in effect, this Treasurer's surplus obsession is putting our state's long-term growth at risk. This government is hell-bent on consoling the guilty conscience that left us with a debt of $9 billion nine years ago. It is ignoring and under-funding the recommendations of the Economic Development Board and it is fudging the figures. It is increasing taxes, rates and charges. It seems that it is doing everything it can to avoid the real work of creating prosperity for this state in the long term.

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

SUMMARY PROCEDURE (CLASSIFICATION OF OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 July. Page 2722.)

The Hon. R.D. LAWSON: I rise to indicate Liberal opposition support for the second reading of this bill. This bill reverses an inadvertent change made to the procedure relating to our criminal law which arose from an amendment contained in the Criminal Law Consolidation (Offences of Dishonesty) Act 2002, which was passed in October last year and which came into operation on 5 July this year.

The effect of the inadvertent amendment was to change the classification of the offence of robbery from a major indictable offence to a minor indictable offence. The classification of criminal offences in this state appears in the Summary Procedure Act 1921 (which had its origin in the old Justices Act), which provides for the procedures of the Magistrates Court in criminal proceedings and for other purposes. It is somewhat anomalous that the classification of criminal offences should be found in an act which is principally designed to deal with the procedures of the magistrates court in its criminal jurisdiction.

I must say that the classification of offences and the definitions contained in the Summary Procedure Act are quite complex. The time may well have been reached when it would be appropriate to have a separate piece of legislation which defines criminal procedure in this state. I think it is a measure of the complexity of these provisions that this error should have occurred when the Criminal Law Consolidation (Offences and Dishonesty) Act was passed in 2002. This is not the occasion to examine in any detail the limitations of the Summary Procedure Act.

Robbery was classified previously as a major indictable offence. That classification was entirely appropriate and should be maintained and, as I said, the effect of this bill is to ensure the preservation of that appropriate classification. The reduction of the classification was an inadvertent event, and this bill will restore the proper classification to all robbery offences.

In briefings with officers of the Attorney-General's Department, there was discussion about making this particular change retrospective—in other words, backdating it to 5 July or to some date before, 5 July being the date upon which the amending act came into operation. I was not inclined to support retrospective operation of criminal provisions, but I did indicate that the Liberal opposition would facilitate the rapid passage of this measure, notwithstanding the heavy legislative program that the parliament currently faces.

The second reading explanation sets out in detail the technical reasons for the inadvertent amendment and I will not repeat them, but those reasons and my comments made earlier highlight the complexity of both our substantive and procedural criminal law. I do not make any criticism of the officers or advisers who failed to detect the error that occurred during the long period of gestation of the original bill, nor do I criticise the current or former attorney or any member of parliament, myself included, for not detecting this defect, which arose as a result of fairly complex interaction between two pieces of legislation. The time may well have arrived when it is appropriate to endeavour to simplify to the extent possible these procedural measures.

With those brief comments I indicate support for the rapid passage of the measure. I indicate, incidentally, that this bill in precisely the same form was introduced on 26 June by the former attorney-general in another place, where it is presently on the *Notice Paper*. I support the fact that the new Attorney has introduced the legislation here, and this will enable us to pass it; and the agreement with the government is that the opposition will support the passage of the measure next week in the House of Assembly.

The Hon. P. HOLLOWAY (Attorney-General): I indicate that the Hon. Ian Gilfillan has said that the Democrats do not have any concerns with the bill and are supporting its passage, and I thank them for that. I also thank the opposition and the Hon. Robert Lawson in particular for his

indication of support to get this bill passed speedily. I will ask the Attorney-General's Department to consider the issue raised by the Hon. Robert Lawson in relation to whether it is time to look at introducing new legislation to simplify some of these issues. I thank members for their support.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: I raise a general point, because the Hon. Ian Gilfillan is not in the chamber and did not make a second reading contribution. However, he raised with me the fact that apparently the Law Society had not provided its customary comment on this measure. Ordinarily, with bills of this kind, the Law Society is invited to make some comment and very often does so. I ask the Attorney to put on the record whether or not the Law Society was consulted in relation to this measure and whether any reply was received from it and, if so, what was its reply.

The Hon. P. HOLLOWAY: I am advised that the Law Society of South Australia was not consulted given that this was, essentially, a technical amendment. I understand that it was the original intention of both the former government and this government that all the robbery offences should be major indictable offences. We are not aware of whether the Law Society has lodged of its own volition any comments. We are not aware of any. If it has, it would have been only in the last day or so. But it was not specifically consulted, I am advised, given that this is a technical amendment and that it was really to make clear that the situation is such as it was always understood by both the former government and the current government.

The Hon. R.D. LAWSON: In respect of the Attorney's response, I would only make the comment that, when making technical amendments of this kind, it is appropriate to seek expert opinion from, in this case, the legal profession. I understand the urgency of this measure: I was provided with a briefing on it, and I thank the Attorney's office for that courtesy. But I believe that the ordinary practice of consulting the Law Society should have been followed. It would appear, certainly from the self-defence legislation (where the Law Society was only consulted, I think, some few days before very complex legislation was to be debated in another place), that the practice previously adopted of seeking the comment of the Law Society may have fallen into desuetude under this current government.

The Hon. P. HOLLOWAY: That is not the case. It is the ordinary practice—and will be the ordinary practice—that the Law Society will be consulted when new legislation is being introduced. This is a special case because, as I said, it is a technical amendment that was urgently needed to correct an anomaly. Certainly, the effect of correcting that anomaly really is to bring the law back to what was understood to be the case by, I think, the previous government and this government. It was well understood what the intention was, that is, that all robbery offences be major indictable offences. Essentially, all this bill does is to make that absolutely crystal clear.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

INDUSTRIAL COMMISSION

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

That, pursuant to sections 30 and 34 of the Industrial and Employee Relations Act 1994, the nominee of this council to the panel to consult with the minister about appointments to the Industrial Commission of South Australia be the Hon. R. K. Sneath.

In moving this motion, I make formal an agreed process that has continued in both houses, where agreed nominees are empanelled to discuss the issues surrounding the appointment of the Industrial Commissioner or to make appointments to the Industrial Commission of South Australia. The nominee for the Labor Party, which discusses this in its party room, is the Hon. Robert Sneath, who has a wide and varied industrial background. Being a former secretary of a large affiliate, he has a wide understanding of industrial issues and the necessary experience to be nominated by our party to represent our interests on that august body. I understand that the opposition's nominee in the other place—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I do not think that the minister needs any assistance.

The Hon. T.G. ROBERTS: Thank you, Mr acting President. The opposition has a nominee who has been agreed to in another house. Broadly, I understand, there is agreement on the nomination so, with those few words, I commend the motion to the council.

The Hon. R.D. LAWSON: The opposition supports the motion. The legislation requires a process of consultation to occur before certain appointments are made to the Industrial Commission and the Industrial Court. It is important that that process of consultation be followed, not simply to the letter but also in the spirit of true consultation, and not that a government comes along to the consultation process already having determined that a particular appointment will be made irrespective of comments made during the consultation process. I am sure that the Hon. Bob Sneath, when he goes on the consultation committee, will not have any pre-judgments about whether or not the appointment promised to Mick Doyle will be made.

We hope that he will bring to the table an open mind and objective suggestions; that he will be able to ensure that the consultation process is fruitful and actually produces the best result, not for the various factions of the Australian Labor Party but for the South Australian community. The process of consultation that occurred when I held the portfolio of workplace relations was robust. I certainly wish—

Members interjecting:

The ACTING PRESIDENT: Order! The Hon. Mr Lawson has the call.

The Hon. R.D. LAWSON: I am confident that, in the consultation process, the Hon. Robert Sneath will represent this place in the finest traditions of the Legislative Council.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will not add any more to the kind words that were said by the Hon. Robert Lawson about the process. I understand that the process was robust, which is generally code for chaotic, but we hope our process will be consultative and that consensus comes out of the nominations that are drawn from the wide range of experience that is represented on that panel, which our nominee certainly offers to that experienced body.

Motion carried.

CRIMINAL LAW (SENTENCING) (SERIOUS REPEAT OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 26 June. Page 2666.)

The Hon. A.J. REDFORD: I rise to support this and endorse the well thought-out comments of my colleague the shadow attorney-general, the Hon. Robert Lawson QC, MLC. This is part of the government's continuing and ongoing strategy of law reform which we on this side of the chamber have observed probably has as much substance as bread and circuses or strings and sealing wax in terms of its overall strategy with respect to law and order. I can assure the public of South Australia that, following its passage, this legislation will make absolutely no difference to their sense of security and wellbeing in terms of law and order.

This measure seeks to change the provisions relating to the sentencing of habitual offenders which, I note in the legislation, have now been renamed serious repeat offenders. I deprecate this renaming or characterisation of what the public would understand to be an habitual offender. The government is not alone in this. I was critical of the former government, which used to do it as well. We used to have offences such as burglary and break and enter and, when I talk to members of the community, as we in the Legislative Council do, everybody understands what that means.

However, no-one has a clue what is meant by the term serious aggravated assault, etc. We renamed all those and I was critical of that measure at the time, and, to be consistent, I am critical of renaming habitual offenders as serious repeat offenders. I cannot for the life of me work out why, when we legislate, we cannot call a spade a spade. However, that is not sufficient for us to hold up the bill or prevent its passage. There is a clear need to upgrade these provisions. However, as per normal, the provisions have not been under sold by this government: in fact, not to put too fine a point on it, they have been over sold.

I also support the amendments that were alluded to by the Hon. Robert Lawson. I have a couple of concerns about serious repeat offenders. I will entertain the avid readers of *Hansard* with a story that I came across in my practice in this jurisdiction. I well remember when Mr Frank Moran QC was sitting on the District Court. He was a prominent Adelaide QC and was quite a character. He possessed an extraordinary Irish logic which, on more cases than not, managed to fall on fertile ground when he was addressing juries. He had this ability to think outside the square.

I well remember having lunch with him many years ago (unfortunately he is deceased now) and he had before him what we would describe as a serious repeat offender. This person could not resist temptation and would walk into a shop or supermarket and help himself to something and walk out. This individual had about 300 prior larceny offences, if I can use the old language. He came before Mr Frank Moran who, in his usual Irish logic and being a very compassionate man, could not bring himself to put this man in gaol. He adjourned the case for some considerable period. He stumbled on this idea, and I have to say it had some attraction. He decided to proceed to find the charges proven and put this man on a bond rather than gaol him. He came up with a very unusual condition for this bond. Frank Moran prepared a sign for this man to wear every time he walked into a shop. It basically read, 'I am a thief. If I am caught stealing, please ring my psychiatrist', and then it gave the telephone number.

The man was terribly relieved about not being put in gaol, and he agreed to this condition and signed it. So, every time he walked into Cash Converters, which was probably his main place of stealing, he would put the sign around his neck. Unfortunately, there are others in this community—particularly some members in the DPP's office—who do not have the same imagination as His Honour Frank Moran had. They took the matter to the Supreme Court, and the Supreme Court rejected that concept of sentencing, and this gentleman was sentenced to gaol for some considerable period as a serious repeat offender.

The Hon. T.G. Roberts: I thought you were going to tell us that somebody had stolen the sign.

The Hon. A.J. REDFORD: No, he was quite happy to wear the sign. He was a serious repeat offender. He was an habitual thief. He could not help himself. I thought Frank Moran came up with a novel and sensible solution. However, under our system—particularly with the lack of imagination of the former attorney-general—we do not seem to want to embrace some of the more novel approaches to sentencing which I think that as a state we ought to look at.

An honourable member interjecting:

The Hon. A.J. REDFORD: Yes. The Hon. Terry Roberts interjects, and I know that he was as concerned as I was about the issue I raised last week involving overcrowding in the women's prison and the resultant long delays. Now that the Labor right has been sidelined temporarily with respect to the situation involving the Attorney-General, we might get more enlightened and sensible measures coming into this place about dealing with criminals and the like. But that is a remote and forlorn hope, I have to say.

My serious concern about this is what will happen when this law is passed. I have a question of the Attorney to which I would like an answer. First, I would like the Attorney to advise this parliament of the current policy of the Director of Public Prosecutions in making a decision to make an application under the current law. The effectiveness, or the usefulness, of this law comes into play only if the Director of Public Prosecutions uses his discretion to avail himself of these provisions. I think that there ought to be (if there is not already) a policy as to when that will happen, or when it will not happen. At the risk of repeating myself, my first question is: what is the current policy under the current legislation?

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: Well, I did it for the honourable member's benefit, because I know that he often does not understand first time around.

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order! The Hon. Mr Redford has the call.

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order!

The Hon. A.J. REDFORD: He has really had a bad week, Mr Acting President! He has been in the minority on every vote we have had. However, I will not be distracted. My second question is: what will be the policy of the Director of Public Prosecutions in the event that this legislation goes through? I would be grateful if the Attorney could ask the DPP when he is likely to make applications pursuant to these provisions. This whole process is dependent upon the Director of Public Prosecutions.

My final question is: will the Attorney-General give a direction to the DPP as to when the provisions under this

legislation will be applied? I am not talking about a specific direction in relation to an individual case: I am talking about the application of a policy (and I know that this government is generally a policy free zone) as to when the Attorney-General expects the Director of Public Prosecutions to apply the provisions of this legislation. So, with those few words and that anecdote, I commend this bill for the attention of members in this place.

The Hon. A.L. EVANS: This bill provides that a person can be declared a serious repeat offender if they have committed at least three offences, each punishable by a maximum of five years or more in prison. I note that this only applies to some offences, such as serious drug offences, offences for violence, home invasion, robbery, arson and the causing of a bushfire. If a person is declared a serious repeat offender, the court is not bound to ensure that the sentence it imposes upon the offender is proportionate to the offence, and any non-parole period fixed in relation to the sentences must be at least four-fifths of the length of the sentence.

I have some grave concerns relating to this bill. I do not believe that it is founded on principles of fairness or equity but rather on the community's perceived need for offenders to be locked up for longer periods. It perpetuates a sense of fear in our community and achieves nothing towards rehabilitation of the offender. Regrettably, an increase in the number of people in prison has not meant additional funding towards prisoner rehabilitation.

A person who has been put away for a period which is not proportionate to the offence they have committed is likely to come out of prison an angrier person than when they entered and is more likely to be more highly skilled in their criminal craft. The consequence of this type of measure on the offender would be destructive rather than constructive. Studies have shown that more punishment does not mean more behavioural change. There is a point at which more punishment leads to worse behaviour. Prisoners who are locked up for longer periods become unskilled and de-socialised.

The risk of contracting hepatitis C increases the longer they are in prison, at an average annual cost to the community per prisoner in South Australia of $70 000. The state government would have us believe that if these people were locked away for longer our communities would be safer. There is a consequence in increased damage to families, because there is a longer period of time without family members at home, involving income issues, lack of contact with and emotional damage to children from more frequent visits to prisons. I have heard of a scenario where children have been strip searched before visiting their parent, which must be very disturbing to them.

This is a serious issue for families which I cannot take lightly. South Australia is spending $55 000 to $65 000 per year on every prisoner. This type of legislation will no doubt increase the cost—and for what benefit? The benefit derived from some reduction in criminal activity is far outweighed by the cost incurred by our community and the family of the offender. This should not be the subject of legislation but, rather, left to the courts to make a determination on a case by case basis. We have after all the doctrine of the separation of powers. Judges are mindful of previous offences when they hand down sentences. I do not see any reason why we should not respect that separation. In the long term, this measure will be socially and economically damaging to our community and offenders' families. Family First opposes the bill.

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

CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 June. Page 2394.)

The Hon. A.J. REDFORD: I understand that it is the party position to support the passage of this bill, with some amendments. I have to say that this is the most ludicrous piece of legislation I have ever seen come into this place, supported by some of the most ridiculous, byzantine, ludicrous logic I have ever heard come from the mouth of an attorney-general. I will not hold back, and I will go right into why the former attorney-general loses my respect and deserves to lose the respect of so many in this community for some of the rubbish he comes out with. I will get right to the heart of this. In his second reading explanation he refers to a couple of cases in which the courts were critical of the provisions of self-defence. In the reasons he gave in his second reading explanation he said:

> The core provisions on self-defence worked well. The provisions concerning the partial defence of excessive self-defence did not. In Gillman (1994) 62 SASR 460 at 466, Mohr J, giving judgment on behalf of the Court of Criminal Appeal, said: 'In my opinion the section as drafted is completely unworkable and should be repealed and either redrafted in a way to make it clear what is intended or repealed to allow the common law principles set out in ss (2)(a) to operate.'.

The former attorney-general further states:

> In Bednikov (1997) 193 LSJS 254, Matheson J referred to 'the notoriously ill-drafted section 15 of the Criminal Law Consolidation Act'.

The former attorney-general then goes on and states:

> In light of these criticisms, the government of the day moved to redraft the code on self-defence. It did so by the Criminal Law (Self-Defence) Amendment Act 1997. The intention of the government at the time was that the law (and particularly the core provisions) should have the same content, but should be so drafted to assist their practical application in the courts.

One would be conscious of the fact that the former attorney-general was aware of the level of criticism by the Supreme Court about the complexity of the law and the difficulty of explaining law to 12 jurors—ordinary people off the street (under our byzantine system of justice) who are given a piece of paper and a pencil, and that is about it—and their understanding a very difficult concept of self-defence. He has brought in some of the most byzantine, complex double-negatived legislation I have ever seen; and how a judge is going to pick up the measures as proposed by the former attorney-general and direct a jury is beyond my understanding.

I would urge judges—if this gets through in its current form—not to blame parliamentary counsel: the blame ought to be laid fairly and squarely at the former attorney-general; and, if the current Attorney-General persists with this byzantine piece of legislation, this incomprehensible piece of legislation, he deserves the same criticism. The former attorney goes on (and I think that he thinks that if he repeats wrong statements often enough they suddenly become true statements) and repeats the lie that the 1997 amendments increased the objectivity test. I turn now to the specific provisions.

The amendment seeks to reduce 'reasonably proportionate' so that it does not imply that force cannot exceed force used against the defendant. In the case of home invasion, if a person is not drunk and did not act criminally to attract a threat, that person does not have to act in a reasonably proportionate fashion. The Labor policy prior to the last election was that it would return to South Australia the right to use such force as a person genuinely believes necessary against an intruder or a burglar, and that it would adopt the select committee recommendations.

I might add that those same select committee recommendations caused the amendments to the act of which the Supreme Court was so highly critical throughout the early part of the 1990s. The facts that are confronted by an accused person are to be as the accused believes them to be, and that is what lawyers often call the subjective element. In other words, if you have a genuine or an honest belief about a set of circumstances, you can avail yourself of the defence of self-defence. The difficulty into which the law has got itself is in the area of how much force a person can use to defend themselves.

The law has done triple somersaults and cartwheels over 30 years trying to come to grips with that concept. I am very grateful to the shadow attorney-general for making the brave and, in my view, very correct decision that we ought to dispense with these concepts of excessive self-defence and bring in an entirely subjective test. The former attorney-general has, in my view, a very sound basis upon which he can assert an appropriate policy in terms of the criminal law. I would invite the current Attorney-General (because I am sure he has come into this byzantine exercise late and not fully across it) to look very carefully at his honour Justice Murphy's decision in Viro's case in the High Court decided in 1978.

His Honour Justice Murphy demonstrates the sensible and calm fashion in which we can approach this legal issue. One thing that I like about His Honour Justice Murphy's logic is that he is prepared to trust the jury to make an appropriate decision, something which I must say the former attorney-general is not prepared to do. I will refer to substantial parts of his honour's judgment, because I think this is a very important decision. In paragraph 30 (with reference to the law as it existed back then—and it was just as byzantine) he states:

> The problem arises from the maintenance of the objective test (that there were reasonable grounds for believing what was done was necessary for self-defence) in addition to the subjective test (that he believed he was defending himself).

I think his honour encapsulates the extraordinary difficulty and conflict that we have developed in relation to the laws involving murder over the last 30 or 40 years. His honour goes on to say (paragraph 31):

> In my opinion, the objective test should be abandoned. It is quite unrealistic and introduces problems similar to those in provocation.

Regarding the application of an objective test of this concept, he says:

> The cases abound with statements like this neutralising the objective test's application by references to 'agony of the moment' considerations which obscure the conclusion that, if the test were dispensed with, the law would be simple and just. It is often doubted that the application of the two tests will yield different answers. As Taylor, J. pointed out in Howe, if a jury were satisfied that the killing was not reasonably necessary, they would very likely be satisfied that the accused did not believe he was defending himself.

I know there will be some criticisms of our policy as those criticisms have been made by the courts on many occasions in the past. They are usually made by people who have no confidence in the good and fair judgment of juries which are comprised of ordinary citizens of this country. His honour goes on to say (paragraph 32):

> The argument that the objective test should be retained in order to preserve the social fabric is not convincing to me. It is a curious jurisprudence which requires acquittal of murder because, as a result of intoxication by drugs or alcohol, the requisite intent (to kill or inflict grievous bodily harm) is absent, but does not require acquittal when the accused, with that intent, killed because he honestly believed that he was defending himself (although he did more than was reasonably necessary).

That is an incongruous situation. In other words, if I am absolutely dead drunk and I kill someone whilst not appreciating what I was doing, I have a complete defence but, if I kill someone whilst defending myself but I go too far, I cannot avail myself of a defence, and I probably will be convicted of manslaughter and spend considerable time in gaol. There is no consistency in that—none whatsoever. His honour goes on to say (paragraph 33):

> There is a persistent notion in this branch of the law that murder should be reserved for killings done with intent to kill (not where the intent was only to do less harm) and where there are no mitigating circumstances. This is reflected in the common law principle that the jury, although satisfied of murder, may return a verdict of manslaughter.

What Justice Murphy says about the criticism of adopting a subjective test in terms of how much force a person should be entitled to use in order to defend themselves is very interesting. Criticism of adopting such a test comes in the form of: it would be unjust for a person to be acquitted if they used too much force on a police officer, etc. I think there is a way out of that, and I also think that that underestimates the commonsense of juries in this state.

In that sense, His Honour Justice Murphy talked about this test of proportionality. If members are not following what I am saying, I can understand that; and if they are not following what I am saying, I can also understand why a jury cannot understand a simple direction about this. I can also understand that, if one applies this Byzantine piece of legislation to a jury, they are going to be absolutely befuddled, although I do not think it will make much difference. I have great confidence in juries making up their own mind and coming out with sensible decisions in the absence of sensible laws, in any event.

However, the issue is this test of proportionality, and I will explain what that means: it is my response to the threat proportionate to the threat—you do not kill a person for stealing 5¢ out of your pocket, but you might kill a person if someone is attacking your son or your daughter or a family friend, and that is this sense of proportionality. His Honour Justice Murphy, in this very good decision, at paragraph 36, said as follows:

> The test of proportionality has been applied as if a proportionate response between the apprehended harm and the action of the accused were essential to the defence. This is not an ingredient. Proportionality between the apprehended harm and force used to repel it merely bears on whether he was defending himself.

It is very simple. If I can be so bold as to paraphrase it in this way: if I am attacked, I am entitled to use what I honestly believe to be the necessary force to defend myself. However, if I use too much force—if I turn that reasonable force to defend myself into excessive force—and finish up killing when I do not need to, and I do not have an honest belief that

I need to do that—I do not have a genuine belief that my response is reasonable—I ought to be convicted of murder because my intent has changed. I am no longer defending myself; I am seeking to take the life of another. It is simple and straightforward, and it is easy for juries to apply, and juries will be able to make those sensible decisions. Sometimes it is only attorneys-general and judges who think that juries are not capable of applying simple concepts to—perhaps, on occasions—complex facts situations, and they have to pass laws of a Byzantine nature, such as the one we have in front of us.

I know that, if the former attorney-general actually returns to this position, I will be substantially misrepresented on Bob Francis's program, and I look forward to defending myself on that program when he does go through defending this Byzantine law. Justice Murphy, in looking at this issue of proportionality, went on to say:

> That an accused took no less action than he was certain would avoid his own death or grievous bodily harm would not, in my view, point against his believing he was defending himself.

That is a factual, general observation. Whether an accused retreated or declared off his own attack are also for the jury on the issue. They are not conditions of the defence; self-defence is not strictly a defence. Perhaps what is done in self-defence should be regarded simply as an act or omission which is not malicious within the meaning of the legislation His Honour was considering. He goes on to say:

> This branch of the law suffers from the general tendency to elevate factual arguments into legal tests which are often not only erroneous but also complicate the criminal law and confuse trials. I favour the instructions on this aspect of self-defence being confined to a direction that the onus is on the prosecution to prove (beyond reasonable doubt) that the accused did not act in his own defence, and that considerations such as excessive force, proportionality and failure to retreat, are not conclusive but may be taken into account when deciding that issue. This applies also to questions of whether an accused believed he was defending himself or that what he was doing was necessary to avoid the apprehended harm, or whether he had any belief at all.

The most common scenario for this sort of event is the bar-room brawl where someone goes after someone, someone responds, and then, at the end of a tragic situation, there is a dead body. If I go berserk in defending a tap on the shoulder and I kill someone, surely I should be convicted of murder. Surely, I should not be able to hide behind the concept of excessive self-defence. Surely, I would be confident that I would be protected by the law by the fact that my subjective belief will be examined, not some objective belief about what might have happened if I had known all the circumstances in a perfect world. Juries are perfectly capable of dealing with those issues.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: I despair at the way in which we are passing this law, how we will confuse juries and how difficult we will make it for judges. We are going to do so in circumstances of the utmost and critical importance, that is, a murder trial. I just despair that we pass incomprehensible laws that not even Supreme Court judges can apply. I will give members an example. A judge would read new section 15C to a jury, and he would say, 'Now, ladies and gentlemen, there is an argument about whether or not this happened in your home. I am required under the act to give you a direction—and I will give you a direction. This is my direction: you have to determine whether the defendant's conduct was objectively reasonably proportionate to the threat that the defendant genuinely believed to exist. It does imply that the force used by the defendant cannot exceed the force used against him or her.' That is blindingly simple! I am sure the jurors will follow that, but there is more! It is like the steak knives scenario.

Where there might be a situation of a home invasion, he would say, 'The defendant is entitled to the benefit of the relevant defence—that being a subjective defence—even though the defendant's conduct was not objectively reasonably proportionate to the perceived threat, if the defendant establishes his or her case on the balance of probabilities. Ladies and gentlemen of the jury, this is a little different from proving guilt beyond reasonable doubt. This time, the defendant must prove something on the balance of probabilities; I am sure you are following me, ladies and gentlemen of the jury. The defendant must establish that he or she genuinely believed the victim to be committing or have just committed a home invasion—whatever that might mean—and the defendant was not engaged in any criminal misconduct that might have given rise to the threat or perceived threat.' So, if you are smoking a joint, or something, bad luck. He would continue, 'And the defendant's mental faculties were not at the time of the alleged offence substantially affected by the voluntary and non-therapeutic consumption of a drug.'

If I am sitting at home having a few beers and someone comes in, and I defend myself and he finishes up dead, bad luck, I cannot use it. I wonder in this great wine state why we are not allowed to have a drink at home, according to the former attorney-general. The judge could explain to the jury if they say, 'We are not sure what is meant by "non-therapeutic".' There is assistance for the jury in that case. The assistance they will be given is that a drug is a non-therapeutic drug if it is not prescribed by a doctor. At this stage I just wish the Attorney-General would take a day out, go to a court and watch a trial—it would be the first one he has ever seen—to try to determine how a judge will put that provision in simple terms so that good hardworking jurors can apply what they are supposed to do, that is, their judgment, skill and experience to determine the facts, rather than try to get into some exercise about objectivity and subjectivity, and so on. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2.15 p.m.]

QUESTION TIME

CONSTITUTIONAL CONVENTION

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

Leave granted.

The Hon. R.D. LAWSON: The Attorney-General's predecessor was a member of the steering committee for the forthcoming Constitutional Convention. That steering committee is presided over by the member for Hammond, who is Speaker of the House of Assembly. Arrangements for the convention, which is to occur on a weekend in early August, are well advanced, and it is being suggested that the various sessions in which the 300 South Australians who are selected will participate will deal with separate questions.

One of the questions will be the subject of citizens initiated referenda, and it is proposed by the organiser of the conference (Issues Deliberation Australia) that the Hon. Peter

Lewis, Speaker of the House of Assembly, be one of the panellists for that particular plenary session. It is proposed that the Hon. Deane Wells be a panellist during the second plenary session.

During the course of community consultations in which I participated (along with you, Mr President, the Attorney-General and the Speaker), reference was often made by the Speaker to the fact that practising politicians would not be participating in or seeking to influence the deliberations of the Constitutional Convention. My questions to the Attorney are:

1. Does the government agree that it is appropriate for the Hon. Peter Lewis to participate as a panellist in a plenary session of the Constitutional Convention, given the undertakings that have been made to the public that practising politicians would not participate in that way?

2. Will the minister confirm that the Deane Wells, who has been nominated as another panellist, is in fact the Hon. Deane Wells, the Queensland Minister for Environment, whose only claim to fame in this state would appear to be the fact that he is the author of the book *The Wit of Whitlam*?

The Hon. P. HOLLOWAY (Attorney-General): It is true, as the honourable member has said, that the former attorney-general was a member of the steering committee. Of course, the member who asked the question (Hon. Robert Lawson) is a member of the steering committee, so I am sure that inevitably means that he and you, Mr President, will know far more about the background to the organisation of the Constitutional Convention than I, because I have not been involved. All I can say in relation to the first question is that we know that the Hon. Peter Lewis has taken a very considerable interest in the Constitutional Convention—

Members interjecting:

The Hon. P. HOLLOWAY: Members laugh; everyone wants to pour scorn on the idea of constitutional reform in this state, but certainly I have always supported the Hon. Peter Lewis in his attempts to change the constitution. I might not agree with the particular ways in which he chooses to do it, but I believe it is entirely appropriate that, from time to time, we should review the constitution of this state. Many aspects of our constitution become out of date from time to time. We just saw one example a few weeks ago (which this parliament corrected) concerning the language used in that constitution. A number of issues in the constitution should be reviewed, and the Speaker in the other place has my full support in doing so. Personally, I have no problem with his speaking if he wishes to do so, but, as I said, I have not been a member of that steering committee up until now. I will have a look at that. As to who Deane Wells is, I will also look at that, but I suspect that, if the honourable member is on the steering committee, he has a better idea than I.

The Hon. A.J. REDFORD: As a supplementary question, why have Barry Jones and Ian Sinclair been asked to preside over this convention; and is this an acknowledgment on the government's part that there are no suitably qualified South Australians to chair this convention?

The Hon. P. HOLLOWAY: Barry Jones and Ian Sinclair are well known as chairmen of conferences of this type and they do a particularly good job. If the idea is to get the very best chairs in Australia to undertake the task, then I have no problem with that.

The Hon. A.J. REDFORD: I have a further supplementary question. What is wrong with a South Australian, when, after all, it is South Australia's constitution?

The Hon. P. HOLLOWAY: I do not think I need add to the previous answer.

The Hon. J.F. STEFANI: I have a further supplementary question. Will the Attorney advise why the President of the Legislative Council was overlooked?

The Hon. P. HOLLOWAY: Mr President, I am sure that you have been taking a very active role on the steering committee, and I am sure that you will defend the position of the Legislative Council in any of the debates that might be had. I have total confidence in the President to be able to fulfil that task.

The Hon. A.J. REDFORD: I have a further supplementary question. What will it cost the South Australian taxpayer to bring Barry Jones, Ian Sinclair, Deane Wells, Elaine Thompson from the University of New South Wales and Ann Twomey, also from the University of New South Wales, to South Australia to lecture us about our own constitution?

The Hon. P. HOLLOWAY: The costs of the Constitutional Convention have been made public on occasions. I do not have those figures with me, but I will get them for the honourable member.

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about the Constitutional Convention.

Leave granted.

The Hon. A.J. REDFORD: On 26 February this year the *Advertiser* reported that the cost of the Constitutional Convention to be held next month was approaching $1 million. The *Advertiser* reported that 300 people would be randomly selected, and, indeed, I was correctly quoted as saying that this will be 'the most expensive constitutional education process the world has ever seen for 300 lucky people.' I understand that 1 000 people were randomly selected, with the view that 300 would accept. They, in turn, would be offered $100 each to cover their expenses.

Prior to the process commencing, the organisers, i.e. the Speaker and Dr Pamela Ryan of Issues Deliberation Australia, were asked what the process would be if more than 300 indicated their willingness to attend. I believe, Mr President, that you were present when this was discussed. The steering committee was told that Issues Deliberation Australia would personally pay for the costs of anyone, over and above the lucky 300, who indicated they would attend.

It now turns out that 600 people have indicated their preparedness to attend, meaning that Issues Deliberation would—if their promise was honoured—pay for the additional people. I understand and have received reports, Mr President, that that in fact is now not going to occur and that only the first 300 will be paid for their attendance. In the light of that, my questions are:

1. Will the Attorney seek to honour the promise that all people who attend this Constitutional Convention will be paid their expenses?

2. Will the Attorney undertake and give this place an assurance that none of those people will be excluded?

3. Will the Attorney rule out any process that might randomly select people from the chosen 600 who have indicated their willingness to attend?

The Hon. P. HOLLOWAY: I was not a member of the steering committee until last week, obviously, when I was appointed Attorney-General, so I will have to get information on what is happening in relation to the selection of those 300 people. I do make the comment, however, that the Liberal opposition also made a compact with Peter Lewis, but, of course, this part might have been excluded. I can well recall the day that compact was signed and the Hon. Dean Brown in another place holding up the compact and saying that he had signed it. But it appears that, since then, bits and pieces have fallen off it.

Members interjecting:

The Hon. P. HOLLOWAY: So the constitution was not part of it. You did not agree to have a Constitutional Convention?

The Hon. R.D. Lawson: It was not part of the member for Hammond's requirements. We agreed to it.

The Hon. P. HOLLOWAY: So, you agreed to it. I think, rather than pouring scorn, we know how vitriolic members are. They obviously feel very let down that the Hon. Peter Lewis did not support them to form government. Perhaps they should instead go back and consider their behaviour over the previous four years to see why he did that.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I think all South Australians would like to give this a chance. If it is true, as the Hon. Angus Redford says, and there are 600 people who want to go, I think that it is a very encouraging sign that so many people wish to be involved in a debate about the constitution of this state, and I for one look forward to the outcome of that particular conference. I hope it does come up with some suggestions. I think that anybody who looked at the behaviour of the Leader of the Opposition yesterday would have seen a good case about why we do need some constitutional change in this state. Yesterday, the Leader of the Opposition breached all sense of decency by speaking for over an hour, making all sorts of allegations in relation to an inquiry that the police—

Members interjecting:

The Hon. P. HOLLOWAY: It is a substantive motion, but not strictly correct in relation to it. If you move a substantive motion, then you have to confine yourself to what is contained within the substantive motion. Yesterday the Leader of the Opposition moved way beyond it and breached all sense of convention and decency in relation to that.

The PRESIDENT: These matters were subject to a point of order yesterday and a ruling was taken on it. It was accepted and not dissented to, so I have to protect the dignity of the council and insist that the minister continue with the answer.

The Hon. P. HOLLOWAY: I am saying how the dignity of this council needs to be protected by some of those conventions being upheld. The President's decision yesterday was entirely proper in accordance with the standing orders. We might need some constitutional change so that that sort of behaviour, which is frowned upon in every other parliament in the western democratic world, should not be allowed to happen here.

The Hon. A.J. REDFORD: If the minister cannot answer my question about the honouring of the promise to pay for the additional 300 people, can he at least bring back an answer next Monday or Tuesday so we know the answer rather than engage in the discussion that we have just had?

The Hon. P. HOLLOWAY: If I did not indicate it in answer to the question, I am certainly happy to provide that information.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Perhaps if you stop interjecting we might be able to complete some of these answers and get some information.

The PRESIDENT: There are far too many interjections.

The Hon. A.J. REDFORD: By way of supplementary question, will the Attorney-General rule out a second and subsequent expensive convention next year?

The Hon. P. HOLLOWAY: I am not sure what undertakings have been given in relation to it. As far as I am aware, the government's commitment will be met by having this convention.

BARLEY MARKETING REVIEW

The Hon. CAROLINE SCHAEFER: Does the Minister for Agriculture, Food and Fisheries agree with the findings of the review into barley marketing which he tabled in this council on Tuesday?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The government has accepted in principle that the recommendation, which will mean—

The Hon. Caroline Schaefer interjecting:

The PRESIDENT: Order! The Hon. Mrs Schaefer is not the minister.

The Hon. P. HOLLOWAY: I am pleased the honourable member has asked this question because we know what some of her federal Liberal colleagues have said in relation to the barley marketing single desk, and I will have something to say about that in a moment. The government has accepted in principle the recommendations of the barley marketing single desk, the principal recommendation of which is that the state government should give consideration to the principles of the Western Australian act as a model for future action. That is essentially where the government is at. We will look at the Western Australian model and give consideration to it. The debate on the future of the single export desk of the Barley Marketing Act should now lie in seeing what accountability mechanisms are necessary in relation to that act. The former minister, who asked the question, should be well aware why the state government had a review.

The Hon. Caroline Schaefer: It was required under the act.

The Hon. P. HOLLOWAY: Exactly: it was required under the act—that is why we had it. I would have been quite happy had we not had to undertake it at all, but the competition principles agreement was signed back in 1995 by John Olsen on behalf of this state and it has given us certain obligations to fulfil under the national competition policy. Something like $70 million each year is paid to this state under competition payments. Under that competition principles agreement, every state has to review all its legislation and the amendments made in 2000, when Rob Kerin was minister for primary industries. The Barley Marketing Act required us to undertake a review in relation to the single desk to satisfy NCC requirements.

From the moment this government came to office, the National Competition Council, at all the meetings that have been held (as they are) between the NCC and the state government, has insisted that we should honour that review. Of course, in setting up the review—in appointing people to

that review in terms of reference and methodology, and so on—we have had to have the national competition policy all the way through.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: No, this will be a long answer. I will put everything on the record. I welcome the opportunity to talk about it. But, more importantly, I will address the gross misrepresentation and dishonesty of the Liberal Party in relation to this matter, both at a state and federal level.

We had the requirement under national competition policy, signed off by John Olsen—and one can debate how many millions of dollars a year it will be; $10 million is one figure that is floating around. I cannot give that any particular credibility compared to other figures. But what I can say is that the National Competition Council has made it quite clear that honouring the obligations made by former minister Kerin was necessary for the state. I believe that we have done that. We have had the review under the Barley Marketing Act; we have conducted this review, so that part of the obligation is now complete. This review, which has conformed with competition policy, has now been completed. I would hope and expect that the state would not be penalised under competition policy for the way in which the review is being conducted. But, of course, the debate should now move on to ask: where do we go from here? How do we get a suitable accountability mechanism in relation to the single export desk?

I remind members opposite, and those with an interest in the barley marketing issue, that, in relation to the Australian Wheat Board single desk, there was a competition review by the commonwealth government and, of course, a wheat export authority was established to provide an accountability mechanism under that act. Also, of course, changes were forced on the Western Australian government to comply with national competition policy, and that is the model that the review committee has recommended we follow in this case. That is where the debate should move on to.

I note that, in a media release earlier this week from Michael Iwaniw (Chief Executive Officer of ABB Grain Ltd, the body that we are talking about), he made the following comment:

> We hope that the state government does not move this way without thorough investigation of the impacts of a licensing system on our industry here in South Australia—including what it would cost, who would pay, as well as its real impact on the single desk and revenue returns to growers and the state.

Of course, that is entirely appropriate. That is where we are at now. The review committee has said, 'Go away and give consideration to the principles of the Western Australian legislation as a model.' Those are our instructions, and we will do that. But, as Mr Iwaniw said, it is necessary that we look at the impacts of any such system on industry here, including what it would cost and who would pay, as well as its real impact. Mr Iwaniw also said:

> It needs to be demonstrated how a licensing system would return more benefits to South Australian barley growers than the single desk currently does.

Mr Iwaniw said that ABB understood the state government's need for the single desk operator to be accountable and transparent. I think it is important that the CEO of ABB has accepted that the state government does need the single desk operator to be accountable and transparent. Mr Iwaniw continued:

> ABB already provides extensive financial reporting and ABB believes a monitoring body or 'industry watchdog' to oversee the single desk, rather than a licensing authority, is the way to go.

That is, essentially, where the debate on the future of the barley marketing legislation will go from here. As I have indicated publicly, it is unlikely that any legislation would be ready at least until the first half of next year. And that is when we will have the real debate: when we debate the legislation in parliament.

I know that it makes good politics for both the Hon. Ian Gilfillan and the Hon. Caroline Schaefer to go out and portray the review recommendations (which this government was required to have under amendments which were passed back in the year 2000) as the government's attempting to do something. It is cheap politics, easy politics, but if you have a cheap, easy opposition it is probably what you would expect. It is worth pointing out what the federal Liberal members of this state said in a letter to the *Stock Journal* on 3 July. They stated:

> As representatives of South Australia's rural producers, we want to clearly enunciate the role of the federal government in the review of the SA Barley Marketing Act. All monopolies, large and small, are obliged to face regular reviews under the NCP. These reviews are designed to ensure the monopoly arrangements continue to work in the public interest. Penalties under the NCP policy only apply when a review finds that existing arrangements are not in the public interest. The present review is an opportunity for the industry to prove why its single desk marketing arrangement should continue, not an initiative by the NCP to knock it out.

That was signed by Neil Andrew (member for Wakefield), Patrick Secker (member for Barker), Barry Wakelin (member for Grey), Senator Jeannie Ferris, Senator Alan Ferguson and Senator Grant Chapman, and that is what the federal members are saying. Of course, at the end of the day, this state government will do as it is bid. We will have a look at the situation in Western Australia. I note from today's *Stock Journal* that the Hon. Caroline Schaefer is going over to Western Australia to look at it. I compliment her on that. If we can assist in any way with our colleagues in Western Australia—

The Hon. Caroline Schaefer: You can pay my fare if you like!

The Hon. P. HOLLOWAY: Perhaps we won't go that far, but if we can facilitate the visit I would welcome that. When we have a ministerial conference in Western Australia later this year, I also intend to use that opportunity. But it is important that we now have an informed debate. Given that the commonwealth government (under its own review of the Australian Wheat Board) has set up a mechanism to ensure that the single desk is accountable, it is inevitable that, if we are to get competition payments from the commonwealth, some form of accountability for the privilege of having the single desk will be necessary. I think that there is no option other than putting that forward. The issue is: what form should that take? That is where a lot of research will need to be done.

Ultimately, we will debate that when legislation comes before the parliament this time next year or perhaps a little earlier. The balancing act that the government has to perform is those requirements of National Competition Policy, which are upon us. There is something like $10 million at stake. We believe that we have conformed in having that review. When we have had a look at what accountability mechanisms are available to us, we will bring that legislation forward. Obviously, the whole parliament at that time will make an

assessment on whether the mechanisms suggested should be proceeded with.

The Hon. CAROLINE SCHAEFER: As a supplementary question, does the minister therefore agree with the published opinion of his factional colleague Mr John Rau that it is very important that they reject the proposals? 'These proposals are a triumph of ideology over commonsense,' he said. And how many of the other members of the minister's caucus are joining with him, as Mr Rau said, to lobby against the recommendations of his published report?

The Hon. P. HOLLOWAY: I am pleased to see that within the Labor Party there is a very healthy debate about rural issues such as the Barley Marketing Act. It shows that there is a great deal of concern for the future of the state, and I welcome that. Mr Rau, like the rest of us, will have the opportunity to debate whatever proposals the government comes up with. As far as I am concerned, I intend to take seriously that recommendation to at least look at what accountability mechanisms are available in other areas, to see whether they provide a suitable accountability mechanism without, of course, threatening the benefits that we all gain from the single export desk in barley. Whether that is possible is something that we will know when we examine this matter over the coming months.

SALVATION JANE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on Paterson's curse.

Leave granted.

The Hon. R.K. SNEATH: Paterson's curse or Salvation Jane, as it is commonly known (or, as I call it on my small property, Liberals' curse), was first brought into Australia in the 1850s as a garden ornamental. We are all familiar with the stunning carpets of purple that once stretched as far as the eye could see when driving through country areas, as some of us do—unlike members of the opposition. Although it created a picturesque landscape and was a useful source of pollen for bees it unfortunately caused significant problems for the management of pastures and stock. Its control and removal quickly became an important issue for land management. My question to the minister is: with Paterson's curse being a serious land management issue, is the South Australian Research and Development Institute undertaking any research into its control?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the Hon. Bob Sneath for his question and also for his ongoing and sustained interest in rural issues in South Australia. I think that he is one of the many members of the Labor caucus who shows a great interest in rural matters. I am happy to report that there has been a recent extension of funding for—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I don't think the Leader of the Opposition has been outside the eastern suburbs in his life! Paterson's curse is a highly competitive plant due to the large amount of seed that is produced in the large, flat rosette formation of leaves that smothers other emerging seedlings. It is widespread through the northern agricultural districts, including where the Hon. Bob Sneath lives, Yorke Peninsula, the Murray Mallee, the South-East and the Central area. It is also very common in the Flinders Ranges.

Although it can be used as drought fodder for sheep and cattle, it is generally a problem for farmers for a number of reasons. Its presence reduces the quality and amount of useful fodder that would otherwise be grown. It is also known to reduce soil fertility if it replaces nitrogen-fixing plants. When it dies back, it leaves bare patches that are at risk of wind and water erosion. The stiff bristles cause irritation on the udders of dairy cows and it is a source of allergies, particularly hayfever, to humans. In addition, horses and pigs are prone to the ill effects of the alkaloids that are ingested while eating the plant, and under certain circumstances this can lead to a reduction in appetite, a loss in the animal's condition and even death, which hardly makes it 'Salvation' Jane.

Funding from Wool Innovation and Meat Livestock Australia will allow the South Australian Research and Development Institute (SARDI), the South Australian arm of this nationwide project, to continue its work for another 2¼ years. The project focuses on using biological control on Paterson's curse that aims to limit the dominance of the weed so that it becomes a minor part of pastures.

Four agents are used to manage the weed: crown weevil, root weevil, flea beetle and pollen beetle. Crown weevil establishment has been confirmed at a number of sites on Eyre Peninsula, with successful results, as the weevils have spread over seven kilometres at one site already. The crown weevil has successfully established and spread at other sites in the Adelaide Hills and the Upper South-East. The first release of the flea beetle in the South-East was made at a Robe field day on Wednesday 2 July. So, I can inform the honourable member that there is some hope in sight.

TEACHERS, SHORTAGES

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, a question regarding teacher shortages.

Leave granted.

The Hon. KATE REYNOLDS: My predecessor, the Hon. Mike Elliott, spoke many times in this place about the critical shortage of teachers in this state. He highlighted that the shortages were primarily due to an undersupply of qualified graduates and not to increased demand, that universities expected to further limit enrolments in teacher education courses as a result of declining overall resources, and that Australian teachers are being actively recruited overseas. New South Wales has now aggressively advertised in South Australia for teachers, and other states are starting to offer better packages that lure our teachers away to address their staff shortages. There is still a critical shortage of teachers in both general and specialist subject areas. Rural and remote schools continue to face significant difficulties finding teachers, and several weeks ago I raised the issue of a declining number of male school teachers in schools.

The Graduate Careers Council of Australia has highlighted that South Australian teacher graduates are paid almost $4 000 less than the national average. As well as the problem of an ageing work force, many experienced teachers in the public sector have retired early due to the increased complexity and difficulty of the job, the lack of career progression and the loss of support from the department, including diminishing opportunities for professional development. Some teachers have left the profession because they no longer felt confident having to regularly teach and assess outside

their area of expertise. Unless this issue is addressed with a comprehensive state and national approach, very soon there will not be enough teachers out the front of classes in urban schools, as well as rural schools, and there will be a further decline in the standard of the teaching profession. My questions are:

1. Does the minister agree that the recruitment and retainment of teachers in South Australia is at crisis point?

2. Will the minister urgently implement a campaign in South Australia to encourage talented and enthusiastic young people to take up teaching as a career; if so, when; and, if not, why not?

3. What action will the minister take to support the recruitment and retention of teachers by tackling the problems of poor or dangerous teaching and learning conditions, excessive workloads and in many schools extremely difficult student behaviour?

4. Noting the $5 million announced in the state budget for improvements to teacher housing, what other initiatives will this government offer to encourage more teachers to move to rural and remote areas, and when?

5. Does the minister agree that alternative pathways need to be created for entry into the teaching profession, allowing experienced allied educational staff, support staff and Aboriginal education workers to move into teaching through bridging training in combination with systems for recognising prior learning and prior experience; if not, why not; if so, what action will she take and when?

6. Does the minister agree that there is an urgent need to recruit more indigenous educational workers with special training programs located in remote communities, mentoring programs and specific support programs for indigenous people at the beginning of their teaching careers; if so, what action will she take and when; if not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for the Education and bring back a reply. In answer to the previous question, I said that the competition principles agreement was signed by John Olsen in 1995. However, Dean Brown probably was the premier at the time.

SA WATER

The Hon. T.G. CAMERON: I wish to put the following questions to the Minister for Agriculture, Food and Fisheries, representing the Minister for Government Enterprises, regarding SA Water:

1. Considering the current perilous state of our water supplies, which members of the board of SA Water and the executive of SA Water have engineering or scientific qualifications relevant to the running and development of water and waste water systems?

2. In order to have the ability to meet the challenges for ensuring the future reliability of the supply of water to South Australia, what programs exist to improve the technical skills of the senior executive and board of SA Water; and, if there are none, will they be introduced?

3. What plans exist to coordinate the activities of the different South Australian government departments and SA Water charged with the management of water and waste water services; if none, will they be introduced?

4. Of the major capital works program being managed by SA Water Corporation, how much is being spent on the so-called environment improvement program for improving the waste water services for South Australia; when will this program be completed; and what delays have been experienced since its inception and the Bolivar pong incident?

5. What agreement exists between SA Water Corporation and United Water to pay for the design, project and construction management fees for the so-called engineering, procurement and construction management programs or other similar engineering project management programs; what fees have been and will be paid to United Water under these agreements; and how do these fees compare to what is commercially available to the marketplace with consulting engineering practices and local contractors?

6. How much did United Water make from new works production funded by the South Australian Water Corporation last year, and how much does this amount of money compare to that paid to United Water for the operation and maintenance of the Adelaide water system?

7. The 2002 SA Water annual report mentions the introduction of triple bottom line reporting. When will this be introduced?

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

The PRESIDENT: Before I take the next question, I point out to honourable members that at question time each member is entitled, technically, to ask one question. I know that the Hon. Mr Cameron on this occasion did not take the right to make an explanation, but he asked seven individual questions, many of which contained two or three subquestions. This is against the spirit and practice of the Legislative Council. I ask members to pay particular attention to this in future. When seven questions are asked, the minister has no hope of answering all of them. So, I think we should return to the practice and procedures, and in future I will monitor it much more closely.

CONSTITUTIONAL CONVENTION

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Attorney-General a question about the Constitutional Convention.

Leave granted.

The Hon. D.W. RIDGWAY: Some 300 people are to be selected at random for the Constitutional Convention. The process was that 1 200 or so people were contacted to see whether they would be interested, and some 600 people have indicated that they have accepted and are willing to participate—

An honourable member: And take the $100!

The Hon. D.W. RIDGWAY: And take the $100, as my colleague interjects—that is, 300 people too many for the process. It appears now that the 300 people will be selected on a first-come first-served basis.

The Hon. A.J. Redford: It's like a race!

The Hon. D.W. RIDGWAY: It is a bit like a race. It seems that this is a self-selection process. One has to question the statistical validity of a self-selection process such as this, as it could preclude people living in the more remote areas of the state from participating, since they are not able to respond quickly because of the timing of mail deliveries. My questions are:

1. Does the Attorney-General agree that participants are not being randomly selected?

2. Will the Attorney-General ensure that participants will be randomly selected?

3. Will he give an undertaking that no selection process will be used that will discriminate against participants from rural and regional South Australia?

The Hon. P. HOLLOWAY (Attorney-General): I think that one of those questions was asked by the Hon. Angus Redford. However, I will take those questions on notice and bring back a response.

SAMAG MAGNESIUM PROJECT

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the SAMAG magnesium project.

Leave granted.

The Hon. T.J. STEPHENS: In response to a question asked by the Leader of the Opposition in the other place on 2 June regarding a review of SAMAG, the Minister for Industry, Trade and Regional Development said that Mr Robert Champion de Crespigny had said, 'I've got a couple of reservations. Will you come back and have a look at it?' The minister goes on to say:

> . . . based on the very constructive and positive criticism from Robert Champion de Crespigny, I now need to simply revisit the business case. I have asked the federal government to do it in partnership with us.

In a radio interview on 20 June, the Minister for Mineral Resources Development said:

> The point I was making at the meeting last night is that Robert Champion de Crespigny hasn't been involved, and won't be involved, in any of the government decision making in relation to the project—

that is, the SAMAG project—

> He certainly hasn't been involved in any way, and won't be involved in any way, in the government decision making on this project.

My question is: why did the minister tell a public meeting in Port Pirie on 19 June that the review of the SAMAG magnesium project was at the request of the federal government and that the Chair of the Economic Development Board, Mr Robert Champion de Crespigny, did not have any influence on the government's decision to hold a review?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I do not believe that I said that the review was at the request of the federal government. I said that the review was necessary to meet the federal government requirements in relation to the project. Obviously, before that SAMAG project could go ahead—I am not sure about the Democrats, but I think most South Australians would hope the project would go ahead—it would require assistance; obviously, the main factor will be getting private sector financial backing for the project. I believe that crucial to that will be the $25 million promised by the state government and, of course, some funding from the commonwealth government.

I note that a figure of $20 million has been thrown around. I was asked questions in parliament about this at the time. If my recollection is correct, I indicated at the time that the commonwealth had made it clear to my colleague in another place who is handling this matter on behalf of the government that there would have to be some settling of issues and that the commonwealth was not prepared to settle those issues. That was essentially why the government was proceeding with this inquiry. I think I made the comment at the public meeting that, if the commonwealth would produce the $20 million or whatever was the appropriate figure, the government would be pleased to discontinue the inquiry. As I said, I was representing the government at that meeting. The minister in another place has carriage of that matter, and I will see whether he wishes to say anything else.

The other point the honourable member asked was in relation to Mr de Crespigny. I think I answered that question at the time. Mr de Crespigny as a private citizen can make whatever comments he likes, but I indicated that he would not be involved in the decision making process in relation to state government assistance to the project.

The Hon. T.J. STEPHENS: As a supplementary question: I refer to Mr Robert Champion de Crespigny, chairman of the Economic Development Board, not Robert Champion de Crespigny the private citizen. Does Robert Champion de Crespigny, head of the Economic Development Board, have a say in the decision making process in this government as the minister in the other place says, or is it as you say and he has no part?

The Hon. P. HOLLOWAY: The advice I have is that Mr de Crespigny would not be involved in matters related to the SAMAG project and that it will be the government that will make decisions in relation to assistance and how we go there. As I understand it, Mr de Crespigny wrote a letter. I am not sure what the background was, but I understand he wrote a letter to a couple of federal ministers—Ian Macfarlane, and I am not sure who the other minister was.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Senator Minchin; yes, probably. He also sent a copy of it to Rory McEwen.

RURAL ASSISTANCE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on counselling support for drought affected farmers.

Leave granted.

The Hon. CARMEL ZOLLO: I understand that the federal government has knocked back the application for exceptional circumstances assistance for the southern Mallee yet again. Of course, the state government has all along recognised the area's distress and provided a variety of measures to assist farm families. These businesses will presumably need some advice and assistance to plan a way forward as they gradually sort things out and, hopefully, move out of the difficult times that they have been facing. I ask the minister: can farmers who are experiencing financial difficulty due to the effects of drought across the state in 2002 access counselling support to reassess their farm business financial position?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her question and her interest in rural issues. It again reinforces how important members of the government regard the country areas of this state and their contribution to the economy. This greatly contrasts with what the federal government does, because only this week I received a letter from minister Truss, yet again rejecting the application of the southern Murray-Mallee area for exceptional circumstances assistance. This was after the information had been in the media for over a week.

So, it was disappointing—in every sense of the word—that we should be treated in that way. The other night, however, it was my great pleasure to drop in on the dinner of

the annual general meeting of the South Australian rural counsellors, at which rural counsellors and representatives from the management committees were present. While I was present the counsellors were able to give me an overall picture of problems relating to our rural economy across the state. These rural counsellors have been working tirelessly on the front line, and I would just like to commend them for their efforts.

They have been doing an excellent job under very difficult circumstances. Currently, there are 17 rural financial counsellors operating across the state who have been very busy supporting and assisting farmers in accessing the various financial assistance programs that are available as well as helping them to assess options for the future. As part of the package announced by the Premier in October 2002, $300 000 was made available to employ three additional rural financial counsellors over the next 12 months.

These three people are funded by the state government—in addition to the usual complement of counsellors—in recognition of the hardship that farm communities were facing as a result of the drought. The location of the additional support was determined in collaboration with the State Association of Rural Counselling Services. The drought counsellors are now operating in the pastoral, Mid North and Mallee regions, as well as in the office of the South Australian Farmers Federation. In addition to the state drought assistance package, I have approved the continuation of state funding of $256 000 per annum providing up to $20 000 per annum per full-time counsellor for those services approved under the commonwealth program through to June 2004.

ASHBOURNE, Mr R.

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Attorney-General a question about circumstances surrounding the standing down of Mr Randall Ashbourne.

Leave granted.

The Hon. SANDRA KANCK: On Monday 7 July, the *Advertiser* published an article claiming that the former deputy leader of the opposition, Ralph Clarke, was offered unconditional readmission to the Australian Labor Party in return for dropping a defamation action against former state attorney-general, Michael Atkinson. The article claims:

> A senior political adviser to Premier Mike Rann, Randall Ashbourne, consulted Mr Atkinson on at least three occasions before he approached Mr Clarke late last year with the offer to facilitate his re-entry into the ALP.

Section 244 of the Criminal Law Consolidation Act deals with offences relating to witnesses. In part, section 244(1) provides:

> A person who gives, offers or agrees to give a benefit to another person who is or may be required to be a witness in judicial proceedings as a reward or inducement for the other person's—
>
> (a) not attending as a witness at, giving evidence at. . . the proceedings; or
>
> (b) withholding evidence. . . ,
>
> is guilty of an offence.
>
> Penalty: Imprisonment for seven years.

Section 244(2) applies the same provision to the person accepting the benefit. The plaintiff in a defamation action is usually the first witness called in proceedings. Ralph Clarke would almost certainly have taken the stand had the matter gone to trial. It has been put to me by a former associate professor of law that offering Ralph Clarke re-entry into the ALP could constitute a benefit and an inducement under section 244(1) of the Criminal Law Consolidation Act. My questions are:

1. Will the Attorney-General confirm that an offer of re-entry into the ALP and rehabilitation was made to Ralph Clarke?

2. Does the Attorney-General believe that such an offer in return for dropping the defamation action would be in breach of section 244(1) of the Criminal Law Consolidation Act?

3. Will the Attorney-General ensure that SAPOL thoroughly investigates this line of inquiry?

The Hon. P. HOLLOWAY (Attorney-General): My understanding is that South Australia Police are doing that right now.

The Hon. J.F. STEFANI: As a supplementary question, is the Attorney aware whether any approaches were made to any officials of the Labor Party to accommodate such a request?

The Hon. P. HOLLOWAY: No.

GAMBLERS, PROBLEM

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, questions about legislation in respect of self-exclusion programs for problem gamblers.

Leave granted.

The Hon. NICK XENOPHON: The South Australian Centre for Economic Studies (under the directorship of Mr Michael O'Neil) has recently undertaken a research project for the Victorian Gambling Research Panel on the efficacy of self-exclusion programs in Victoria. My understanding is that Victorian self-exclusion programs for poker machine venues and the casino are very similar to those which exist in South Australia. According to this research project, the program contains numerous flaws which Mr O'Neil and his team have converted into solutions. Mr O'Neil states that the research has identified several flaws including the fact that 'being identified is a major issue and the pubs and clubs do not have the personnel to monitor their patrons.'

In his report, Mr O'Neil goes on to say that the principal recommendation is that there ought to be the creation of a smartcard which would immediately identify a self-excluded patron. This is a very comprehensive report which makes a number of other recommendations such as having more staff to implement programs to ensure that there is a research development and evaluation budget to improve the day-to-day management of the program. My questions are:

1. Will the minister implement the findings and recommendations in this report of the South Australian Centre for Economic Studies?

2. What advice has the minister's office received in relation to smartcard technology as a means of reducing poker machine problem gambling?

3. What representations has the minister or his office received from the AHA in South Australia in relation to smartcard technology?

4. How many South Australians have availed themselves of the self-exclusion provisions in the Casino Act and the Gaming Machines Act?

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

HOME AND COMMUNITY CARE PROGRAM

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the minister representing the Minister for Social Justice a question about the Home and Community Care program.

Leave granted.

The Hon. J.M.A. LENSINK: On Thursday 5 June 2003, the Minister for Social Justice and the commonwealth Minister for Ageing jointly announced a series of new services from 2002-03 appropriations for this important program which supports the frail elderly and people with disabilities and their carers. As all members should be aware, in 2003-04 the Rann Labor government decided not to provide growth funding. My questions to the minister are:

1. As of today (Thursday 10 July 2003), how many contracts for projects in 2002-03 are yet to be signed or re-signed with agencies?

2. Have any agencies started to receive funding without their contracts having been signed; and, if so, which agencies?

3. Given the government's failure to allocate growth funding, will there be a HACC funding round in 2003-04?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her maiden question, and I will refer this important matter to the minister in another place and bring back a reply.

REGIONAL FACILITATION GROUPS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about representation by the Department for Aboriginal Affairs and Reconciliation.

Leave granted.

The Hon. J.S.L. DAWKINS: Earlier this week, I received a response from the Premier to a question I asked on 27 March this year about the six regional facilitation groups that have been established to provide a cross-agency focus in the regions of this state. These groups have been established through the Commissioner for Public Employment, and nominations have been sought from portfolio chief executives.

I note from the Premier's answer that the following departments and agencies are represented on these regional facilitation groups: the Department for Administrative and Information Services; the Department for Correctional Services; the Department of Education and Children's Services; the Department for Environment and Heritage; the Department of Further Education, Employment, Science and Technology; the Department of Human Services; the Department of Water, Land and Biodiversity Conservation; the Department of Primary Industries and Resources; the South Australian Ambulance Service; the South Australian Housing Trust; South Australia Police; SA Water; and Transport SA.

It is worth noting that the Department for Aboriginal Affairs and Reconciliation is absent from this list. This is of particular concern, given that, following my repeated call for the government to re-establish the Statewide Cross-Agency Regional Development Issues Group, a letter from the current Minister for Regional Development indicated that the role played by that issues group would be assumed by the regional facilitation groups.

The regionally-based representative of the then Division of State Aboriginal affairs (which has now been replaced by the new department) played an important role on the regional development issues group, and he was valued for his input into its work on a variety of regional issues. It is therefore disappointing that the Department for Aboriginal Affairs and Reconciliation does not have any representation on the regional facilitation groups, particularly in the Eyre Peninsula, Spencer Gulf, Riverland and Murraylands regions, which all have a high proportion of Aboriginal people in their population. My questions are:

1. Is the minister aware of the lack of representation of DAARE officers on the six regional facilitation groups?

2. Does the minister agree that the Department for Aboriginal Affairs and Reconciliation should have representation on these facilitation groups?

3. What steps will the minister take to rectify this situation, given the Premier's comment, in his answer to me, that these groups have a complementary role to facilitate and encourage SA public sector agency cooperation and communication at a reasonable level?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and observations, and acknowledge his obvious interest in Aboriginal affairs and outcomes for Aboriginal people in regional areas. We do have a restructured department as well as a restructured cross-agency intervention program working at the same time and also what we are declaring as 'action zones' for Aboriginal areas in terms of support.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Well, they may be 'buzz' words, but we have identified those areas of the state that need this support, as indicated by the honourable member. The relevant agencies can assist, in a coordinated way, in those areas of health, housing and education, and we have tried, through the new restructured process, to use a tier 1/tier 2 model where we have an identification program for regions that need extra support. Port Augusta is one (and that was identified under the previous government), and we have carried on those programs within Port Augusta because they are urgently needed. We have continued that model: we may tinker with it, but it is one that is working at the moment.

The first meetings have occurred in relation to declaring the Yalata area an action zone, and that is well on its way because of the problems that community has and, to some extent, because of its linkages to Oak Valley, although those problems are separate. The Riverland may shortly be declared an action zone because of the degree of difficulty we are having in coordinating a lot of the support services through the agencies in that area, involving the different views and opinions within the Aboriginal community as to how to engage government. We are going to try to get some partnerships brought about there but, again, the differences of some of those groups need to be reconciled, and we are trying to assist with that.

I do take cognisance of the recommendation built into the questions. I will have a chat with the Premier in relation to the future representation of DAAR on those regional committees. I will report back to the member in relation to whether invitations were sent to DAAR in the first instance, and whether there were replies.

MOBILE PHONES

The PRESIDENT: I take this opportunity to make a presidential statement on the subject of mobile phones. I have become increasingly concerned at the use of mobile phones within the chamber. In the House of Commons with 659 members mobile phones are not used or even contemplated. Likewise, in the Australian House of Representatives with 148 members 'mobile phones may not be brought into the chamber'. We have ascertained that other Australian parliaments do not allow the use of mobile phones. It is consistent within a house of 22 that we ought to be able to survive. Members are reminded that we should not impose bans on visitors to the public galleries if members do not similarly adhere to the same standards. The House of Representatives Practices states:

> People visiting the house are presumed to do so to listen to debates, and it is considered discourteous for them not to devote their attention to the proceedings. Thus, photographs are not permitted to be taken in the chamber, and visitors are required to refrain from reading, writing, conversing, applauding, eating. . .

and so on, including mobile phone calls. For members to be using their mobile phones and involving themselves in conversations with persons outside the chamber, and for that matter the parliament, they are setting themselves above the gallery of persons whom they wish to sit in silence listening to their debates. I therefore ask that all members maintain the standards they expect from others.

One other matter that has caused me some concern in recent days—and there have been complaints from members—is the propensity for members to stand around in the galleries conversing with one another. There are lobbies at the back of the council. If members want to converse with one another they should use that facility. I ask all members to consider their obligations under standing order 165 in this respect.

CORONERS BILL

In committee.

(Continued from 7 July. Page 2697.)

Clause 1.

The Hon. P. HOLLOWAY: I begin by responding to some of the remarks the Hon. Nick Xenophon made when we last debated this clause.

On 7 and 8 July 2003 the Hon. Nick Xenophon referred to the Productivity Commission Report and its estimate of the number of gambling-related suicides nationally each year. The report to which he was referring is the 1999 report of the Productivity Commission entitled 'Australia's Gambling Industry'. The commission made an estimate based on information sourced from case studies of individual gamblers and surveys of people who are problem gamblers. The commission stated:

> This evidence provides a prima facie case that suicide can result from problem gambling but it is hard to estimate the actual numbers of suicides.

The commission also stated when referring to a Victorian study:

> . . . it was not clear how many of the suicides related to legally sanctioned gambling compared to illegal games.

As to the number, it stated:

> Gambling-related suicides are estimated to amount to between 35 and 60 a year, with the mid point of 47.5.

The commission was estimating a number for the whole of Australia.

For various reasons, it is probably impossible to find out exactly how many suicides are caused by problem gambling. Information from the Coroner's office is that its data deals more with the cause of death (for example, death by hanging) than with the underlying reasons for a person's committing suicide.

The Hon. Nick Xenophon has asked for my position in relation to directing an inquiry into gambling-related suicides.

Under the bill, suicides or apparent suicides will be reportable deaths because they are unexpected or unusual deaths.

Clause 28 would require any person who became aware of a death that is or may be a reportable death to report it. The person must notify the State Coroner or, unless the death was in custody, the police.

As the Coroner has a discretion to inquire into any reportable death, he could inquire into any death that appears to be a suicide, including those that might be related to gambling. This is set out in clause 21(1)(b)(i) of the bill.

In addition, clause 21(1)(b) would authorise the Attorney-General to direct the State Coroner to hold an inquest into any reportable death. He could give a direction about a class of deaths as well as a direction about a particular death.

It would not be possible for the Attorney-General to direct the Coroner to inquire into gambling-related suicides because that would pre-empt the findings: an inquest would need to be conducted before one could say it was suicide and that it was gambling related. However, it would be possible for the Attorney-General to direct the State Coroner to hold an inquest into every reportable death that the Coroner has reason to believe might be associated with the gambling of the deceased person. Of course, the wording of any section would have to be carefully framed.

However, at this stage I am not willing to give parliament an assurance that I will give a direction.

All suicides are of concern, including those that appear to be associated with gambling but, on the information my department has been able to obtain in the time that the Hon. Nick Xenophon raised this in parliament, it appears that a direction by the Attorney-General to the Coroner would not be the best way of obtaining information about whether or the extent to which gambling is a cause of suicide, or preventing future gambling-related suicides.

Discussion with the State Coroner indicates that the matter is not as simple as might first appear. He pointed out that, although coroners can make findings as to the cause of death in the sense of a death being caused by a particular act, it is often impossible for a coroner to divine the intent of the person right up to the time of that act. There may be several factors that contribute to a person's decision to commit suicide, including undiagnosed mental illness. Sometimes the closest members of the deceased's family do not know the real reason. Often, it is not possible to discover the underlying cause, even when there is a suicide note. The State Coroner has advised that many suicide notes are cryptic and some are written while the person is under the influence of alcohol or another drug. Further, as has been found from people who have attempted suicide, the thinking of the person can change right up to the moment of the act intended to kill. What might at first appear, even from a suicide note, to be a

gambling related suicide, may turn out not to be related to gambling or to be related to a number of circumstances of which gambling is one.

Further, inquests are public. Conducting an inquest into a suicide can cause acute embarrassment to the family of the deceased person. Some inquests into suicides reveal that the person had a secret life that was never even suspected by the closest family members. Some suicides may be triggered by a fear of exposure of the truth, and some suicide notes might be written with a view to making it appear that there is another reason. The facts surrounding a suicide may be complicated and very sensitive. The fact that inquests are public can be most unfortunate for the memory of the person, and for the family and close friends.

The state Coroner is of the opinion that epidemiological studies would be of much greater value in ascertaining the causes for suicides. Until the underlying causes are known, it is not possible to make decisions about what should be done to reduce future suicides. A great deal of useful information is obtained from people who have attempted suicide because they can talk about their circumstances and their motivations.

I am informed that the commonwealth government has provided funding for suicide prevention programs, and some of that money has been spent on research into causes of suicide. In South Australia, the Research Centre for Injury Studies at Flinders University has conducted research into the causes of suicide, although not specifically into the relationship between gambling and suicide. The researchers have access to information about reportable deaths from the state Coroner. They also have access to information that is recorded on a national database of coronial findings called the National Coronial Information System.

The value of any findings and recommendations resulting from research depends largely upon the quality of the information available. Preliminary discussions with Associate Professor Harrison of the Research Centre for Injury Studies at Flinders University indicates that the Coroner's records and the National Coronial Information System provide a great deal of useful data. However, because of the nature of inquests, there are inherent limits on the usefulness of this information for the purposes of ascertaining the real underlying and often multiple causes of a suicide. Systematic epidemiological study is more likely to produce information that can be used to reduce suicides—and I say that without in any way reflecting on the quality of the work of our state Coroner and deputy coroners.

I must also keep in mind the need to avoid placing excessive demands on our coronial system. If I set a precedent by giving a direction about apparent suicides which appear to be associated with gambling, then I expect that other advocacy groups would wish me to give other directions. The Coroners Court does not have unlimited resources. Under this bill the Coroner will be obliged to conduct an inquest into every death in custody (as widely defined in the bill). He has discretion to inquire into any other reportable death and disappearances, fires and accidents. He has the power to make preliminary inquiries which may be quite extensive for the purpose of determining whether to hold an inquest in a particular case. It is important that the Coroner be able to exercise his discretion about which cases should be subject to an inquest so that he can give priority to those in respect of which answers are most needed.

As I said earlier, suicides are of concern, whatever the cause. I appreciate the Hon. Nick Xenophon's concern about those suicides which may be related to problem gambling, but on the basis of the information available to me at present I do not think it would be appropriate for me to give any undertaking to the parliament at this stage that I will give the direction that he would like. However, any interested person may request the Coroner to hold an inquest into a particular apparent suicide. The Coroner has indicated that he is not averse to inquiring into apparent gambling related deaths in appropriate cases.

The Hon. Robert Lawson also raised some points and I will respond to them now. The former government opposed similar amendments moved by the Hon. Ian Gilfillan to the previous bill in 2001. It is interesting that the Hon. Robert Lawson is attacking the government for opposing them. I have already indicated in a general way that the government opposes the amendments filed by the Hon. Ian Gilfillan. I acknowledge that the amendments were agreed to in the Legislative Council when the bill was debated in 2001. It was my understanding that at that time the Hon. Carolyn Pickles, who was handling this bill for the opposition, did indicate that the opposition would re-examine its position before the bill reached the other place, which, of course, it never did. The point is that the ALP has now formed a government and the arguments for and against the amendments have been re-examined. As a result, the government has formed a view that is consistent with that of the previous government.

The Hon. NICK XENOPHON: I thank the Attorney for his comprehensive dealing with the matters that I raised previously. Earlier today I had the opportunity to meet with the Coroner, Mr Wayne Chivell, and I found that briefing very useful in the context of their concerns regarding inquests into suicide, and gambling related suicide in particular, and I think that the Attorney has fairly represented those concerns. My concern in this regard comes from dealing with gambling counsellors and with families of those who have lost loved ones where the evidence points to there being a very clear causal link between the deceased's gambling problem and the act of suicide. I take on board what the Attorney has said about epidemiological study, in that Professor James Harrison of Flinders University is looking into that. Clearly, this is a matter that is within the discretion of the Coroner to investigate, where it is appropriate.

One issue arising out of the Attorney's remarks (and I do not want to hold up the progress of the bill if he cannot provide an answer at this stage) is that, given the very sensitive and distressing nature of any suicide and the concerns expressed by the Attorney in relation to further exacerbating family members' distress, and given the fact that an inquest is public, what provision is there for the Coroner to at least ensure that the name of the deceased is not disclosed? Alternatively, some other way may ensure that there is a balance if some members of that person's family did request an inquest but were concerned about the distress being exacerbated in terms of the publicity about the circumstances of the suicide. For instance, it may be that they were concerned about the children of the deceased. It might be the parents of the deceased, if that person had young children, who were concerned not to exacerbate the distress.

What provision is there in those circumstances, if it is a gambling related suicide or any form of suicide, to have an inquest without disclosing the name of the deceased or any information that would tend to identify the deceased, if there is a concern, as the Attorney said, about distress being exacerbated, or the family members being further distressed?

The Hon. P. HOLLOWAY: I understand there are some provisions in the Evidence Act. We are just having those checked. If the honourable member can wait, we will try to get that information. My advice is that we believe there are provisions in the Evidence Act for suppressing evidence, but whether that includes names or not is something on which we would need to take some advice. I will undertake to correspond with the honourable member on that matter.

The Hon. R.D. LAWSON: I can indicate in response to the minister's suggestion that when this bill was before the Legislative Council in 2001 the then Liberal government took a certain position in relation to amendments then moved by the Hon. Ian Gilfillan. That does not mean that we must now adopt exactly the same position, and indeed we will be adopting a different position.

Since 2001, the South Australian Coroner has conducted extremely helpful inquests into petrol sniffing deaths which occurred on the Anangu Pitjantjatjara lands. These were extensive coronial inquests, which have provided a blueprint for a solution to an extremely difficult problem. The Corner's work in that case and others has been of great value to the community, and in those circumstances it seems entirely appropriate that the work of the Coroner should be encouraged and recognised. In so far as the Hon. Ian Gilfillan's amendments will enable information to be disseminated and problems to be addressed, we will support them.

Clause passed.

Clauses 2 to 24 passed.

Clause 25.

The Hon. IAN GILFILLAN: I move:

Page 16, after line 9—Insert:

(2a) A recommendation may be made under subsection (2) despite the fact that it relates to a matter that was not material to the event the subject of the inquest.

My indication is that at the moment the amendment seems unlikely to succeed, but it is important that it be moved because it directly reflects recommendation 13 of the Royal Commission into Aboriginal Deaths in Custody, which reads:

> That a Coroner inquiring into a death in custody be required to make findings as to the matters which the Coroner is required to investigate and to make such recommendations as are deemed appropriate, with a view to preventing further custodial deaths. The Coroner should be empowered further to make such recommendations on other matters as he or she deems appropriate.

That last sentence is significant. The minister seems to have the understanding that recommendation 13 is already fully implemented, because he said on 7 July this year:

> He [meaning me] appears unaware that at least two of these recommendations—13 and 14—have been fully implemented.

As I have indicated, particularly with respect to recommendation 13, this is simply not the case. That recommendation, amongst other points, states:

> The Coroner should be empowered further to make such recommendations on other matters as he or she deems appropriate.

The 1994 state government implementation report clearly states that recommendation 13 is only partially implemented. It states:

> The suggestion that the Coroner should be empowered to make recommendation on other matters has not been adopted.

What has changed between then and now, I ask the minister? If it was not adopted in 1994, yet in the minister's opinion it has been adopted now, what has changed? It concerns me that the minister has seen fit to change the government's position on this matter, and perhaps it is beneficial to refer to some recent history.

In 1992 state cabinet approved the South Australian government response to the Royal Commission into Aboriginal Deaths in Custody. The response states that the government—at that time a Labor government—supported recommendation 13. If this is not enough, I point out that the Labor opposition in 2001 also supported the very amendment we now have before us. I am disappointed that on the face of it at least this amendment is not to be supported. There is time in committee for the opposition and the government to rethink their position. I am not sure how much the government's position in this matter was determined by the Attorney-General's predecessor, but I think it is refreshing to have the Hon. Paul Holloway as Attorney-General. It is appreciated that we have his presence in this chamber. He has shown more than adequate competence in handling the portfolios he had before. I hope that he continues to hold the Attorney-General's portfolio: this may very well reflect a more enlightened approach. I move the amendment and, realising the constructive approach of the Attorney-General to these matters, he may now see fit to support it.

The Hon. P. HOLLOWAY: Unfortunately for the honourable member, the government opposes this amendment. Please let me explain why. The relevant part of recommendation 13—the recommendation of the Royal Commission into Aboriginal Deaths in Custody, on which the honourable member relies for his amendment—provides (and I think he has already quoted it):

> The Coroner should be empowered further to make such recommendations on other matters as he or she deems appropriate.

It is important that that comment be read in context. The royal commission's National Reports Discussion on Coronial Recommendations, Volume 1, paragraph 4.5, makes clear that the intent behind this part of recommendation 13 was to ensure that coroners were empowered to make recommendations aimed at preventing future deaths in custody. It was not to empower coroners to make recommendations about matters unrelated or irrelevant to the subject matter of an inquest. The report summarises the intention of the recommendations relating to coronial inquiries at paragraph 4.5.3, as follows:

> If the full range of issues thrown up by the deaths of Aboriginal people held in custody are to be met by the Australian system of coronial inquiry, then coroners must be accorded the status and powers to enable comprehensive and coordinated investigations to take place which lead to mandatory public hearings, productive findings and recommendations which seek to prevent future deaths in similar circumstances.

Again, at paragraph 4.5.85, specifically in relation to findings and recommendations, the report concludes:

> Coronial findings in themselves may lead to the identification and rectification of unsafe or inadequate custodial procedures and practices. However, the making of express recommendations on such issues holds a greater potential that the full value of a coronial inquest will be realised and that future deaths will be averted. In the context of deaths in custody, the court is already empowered to make recommendations aimed at preventing or reducing the likelihood of similar deaths in custody as proposed by recommendation 13 of the royal commission.

Subclause 25(2) of the bill provides:

> The court may add to its findings any recommendation that might, in the opinion of the court, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest.

In addition, the Hon. Mr Gilfillan's amendment may well create problems for the court. If the court is empowered to make recommendations on matters that are extraneous to the

event which is the subject of an inquest, this may act as an inducement to parties to seek to broaden the arguments presented to the court to encourage the making of recommendations which suit their interests but which are irrelevant to the cause and circumstances of the particular death or event being investigated. This could add to the complexity of an inquest and, hence, the time and resources necessary to conduct it.

The Hon. Mr Gilfillan has not demonstrated why his amendment, which goes further than recommendation 13 of the royal commission, is necessary or appropriate. Again, I make the point that we believe that this bill does give effect to that recommendation, placed in its proper context.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will not support this amendment. We do not believe it is appropriate to give to the Coroner the powers of a roving royal commissioner regarding such matters as he considers appropriate in relation to inquests. The act already provides the Coroner with extensive powers, and these powers are used. Clause 25(2) provides that the Coroner may add to his findings any recommendations that might, in the opinion of the court, prevent or reduce the likelihood of a recurrence of an event similar to the event that was the subject of the inquest.

A good illustration of the way in which that power is exercised is to be found in the findings of the inquest into the petrol sniffing deaths, to which I referred earlier. These findings, which are very extensive and run over 72 pages, concern the tragic deaths of three men aged 27, 25 and 29 who were chronic petrol sniffers on the Anangu Pitjantjatjara lands. The Coroner made very extensive findings and recommendations. This of course is in the exercise of the power that the Coroner already has. There is no hint in these recommendations that the Coroner was in any way limited by restrictions on his power. His recommendations covered such matters as the socioeconomic factors—poverty, hunger, illness, lack of education, unemployment, etc.—that are endemic on the lands. He made recommendations, for example, about the extension and continuation of various government programs.

He suggested the amendment of the Public Intoxication Act. He suggested that additional resources be allocated to the lands from the Department of Correctional Services. He made recommendations relating to policing. He recommended a more proactive community development role for Family and Youth Services. He recommended what he described as a multifaceted strategy to address the issues on the lands, not only in relation to the tragic deaths of the persons who were the subject of the inquest. We believe that the Coroner already has sufficient power to effectively discharge his important role and we do not believe that it is necessary to provide this expanded and rather diffuse power that is proposed by the Hon. Ian Gilfillan.

That is a power to make recommendations despite the fact that they relate to matters that are not material to the event or the subject of the inquest. I agree with the comments of the Attorney, that a power of that kind is an invitation to persons appearing before an inquest to embark upon a fishing expedition or to pursue a particular agenda that may be unrelated to the task at hand.

The Hon. NICK XENOPHON: I will not be supporting the amendment. On 30 October 2001 when this bill was in this place with former attorney-general Hon. Trevor Griffin, there was quite a tortuous discussion between me and the then attorney (pages 2522 and 2523 of *Hansard*) and I was eventually convinced, essentially along the lines of the current Attorney and the shadow attorney.

The Hon. Ian Gilfillan: Talk about musical chairs! We ought to start up a tune and see who finishes where.

The Hon. NICK XENOPHON: I can assure the Hon. Ian Gilfillan that I will not be going anywhere near the Attorney's or the shadow attorney's seat. I can understand the intent of the Hon. Ian Gilfillan. I think that the amendment in the bill will allow for similar events to be looked at. We have seen the way the Coroner has acted in terms of his findings in the petrol sniffing deaths inquiry referred to by the shadow attorney. In the circumstances, and without restating all that was said almost two years ago, I support the government's position.

The Hon. R.D. LAWSON: There is one important difference to the amendment that the committee is now discussing from that which it was discussing in the passage referred to by the Hon. Nick Xenophon. On that occasion, this amendment of the Hon. Ian Gilfillan also included an amendment that changed the word 'may' to 'must', and the previous amendment required of the Coroner to do something that is now left in his discretion. Much of the objection that the previous attorney took to this amendment related to the mandatory nature of the requirement that the Hon. Ian Gilfillan was then seeking to impose, but he is not doing so on this occasion.

The Hon. IAN GILFILLAN: I am sorry to hear the positions that have been put to the chamber. It is appropriate to remind the committee that, in my second reading contribution, I quoted the Law Society president in 2001, at that stage Martin Keith, who wrote to me, saying among other things:

> Your attention is drawn to recommendations 6 through 40 of the Royal Commission's report, and in particular recommendations 13-17, which propose that Ministers should be accountable to the Coroner for implementation of coronial recommendations arising from deaths in custody.

He identified specifically recommendation 13, which is the one that relates to this amendment. Mr Chris Kourakis QC, the immediate past president of the Law Society and now Solicitor-General, who was president at the time of the initial consultation on the Coroners Bill in 2002, wrote to the Attorney-General, stating:

> The Law Society maintains its endorsement of recommendations 13-17 of the Royal Commission into Aboriginal Deaths in Custody.

He went on to indicate that similar moves had been made in the Northern Territory, stating:

> . . . amendments to the Coroners Bill of the kind promoted by Mr Gilfillan MLC and by the Honourable Dr Peter Toyne are required for South Australia in the public interest.

I feel that I am in good company, even if not in this place, in putting this amendment. I cannot for the life of me see what mischief the Attorney-General, the shadow attorney-general or the esteemed legal mind of my colleague the Hon. Nick Xenophon can see in it. Why are we so anxious, why are we so nervous, about a person who is appointed to a very significant role, who is given very high status in this place in other contexts? Through this amendment a recommendation may be made by the Coroner on a matter that is not material to the event that is the subject of the inquest, so why waste the potential value of that? If we have the expense of a coronial inquiry and the Coroner identifies something upon which he or she wants to make a recommendation, it seems bizarre that we frustrate the Coroner from being able to make that recommendation under subclause (2). However, unless

there is a rapid change of heart, it appears that I will not be successful at this stage, and I am disappointed to hear that.

Amendment negatived.

The Hon. IAN GILFILLAN: I move:

Page 16, lines 12 and 13—Delete subclause (4) and substitute:

(4) The Court must, as soon as practicable after the completion of the inquest, forward a copy of its findings and recommendations (if any)—

(a) to the Attorney-General; and

(b) in the case of an inquest into a death in custody, to—

(i) any other Minister (whether in this jurisdiction or some other jurisdiction) responsible for the administration of the Act or law under which the deceased was being detained, apprehended or held at the relevant time; and

(ii) each person who appeared personally or by counsel at the inquest; and

(iii) any other person who, in the opinion of the Court, has a sufficient interest in the matter.

(5) If the findings on an inquest into a death in custody include recommendations made by the Court, the Attorney-General must, within 6 months after receiving a copy of the findings and recommendations—

(a) cause a report to be laid before each House of Parliament giving details of any action taken or proposed to be taken by any Minister or other agency or instrumentality of the Crown in consequence of those recommendations; and

(b) forward a copy of the report to the Court.

As I am pleased to hear, support has been indicated from the shadow attorney, and I assume the balance of the opposition. I also hope that it is not too precocious to assume that the Hon. Nick Xenophon also supports this amendment. Therefore I will not take up the time of the committee to read it through, but I will point to its significance. This amendment deals with recommendations 14, 15 and 16 of the Royal Commission into Aboriginal Deaths in Custody. The amendment deals with two points. The first, new subclause (4), relates to the provision of copies of findings and recommendations. This relates to recommendation 14 of the royal commission. While the Coroner is very good in doing this already, and all inquest reports are available on the Courts Administration Authority web site, I believe it is important to formalise these requirements in legislation.

The second amendment, subclause (5), provides that the Attorney-General table a report on the implementation of recommendations of the Coroners Court that relate to government agencies. It is this point that is currently not adequately covered. The minister himself highlighted that, stating—and he does say such valuable things from time to time—the following:

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 Democrats believe that the onus to disclose this information must be on the Attorney-General rather than forcing the parliament to harass the minister to get a response, particularly given the former attorney-general's very poor record in answering our questions. I therefore urge support for the amendment.

The Hon. P. HOLLOWAY: The government opposes these amendments. The Hon. Mr Gilfillan's amendments to subclause (4) will require the court to provide copies of its findings and recommendations on a death in custody inquest to any other ministers responsible for the legislation under which the deceased was detained at the time of death, each person who appeared before the inquest, and any other person who in the opinion of the court has a sufficient interest in the matter. This amendment is unnecessary. As a matter of practice, the State Coroner provides copies of all findings and recommendations to the head of any government agency involved in the event that was the subject of the inquest which in the case of a death in custody would include the custodial agency, any minister who was the subject of any recommendation, any party who appeared or who was represented at the inquest and any other person or organisation the State Coroner considers appropriate. Copies of findings and recommendations are also posted on the Courts Administration Authority's web site. This practice is consistent with the royal commission's recommendations and will continue under new legislation.

As far as the government is aware, there is no suggestion that under the current arrangements coronial findings and recommendations are not brought to the attention of the appropriate persons and organisations, including relevant government ministers and agencies, or are not readily accessible by members of the public. Certainly, Mr Gilfillan has not demonstrated that that is the case. Additionally, under the proposed amendment, should the court inadvertently overlook sending a copy of the findings and recommendations to one of the specified parties, it will technically be in breach of its own legislation, even though the party in question could access the findings and recommendations on the Courts Administration Authority's web site or simply request a copy from the State Coroner's office.

Recommendation 14 of the royal commission—the recommendation on which this amendment is based—provides that copies of the findings and recommendations of the Coroner be provided by the Coroner's office to all parties who appeared at the inquest, to the Attorney-General or Minister for Justice at the state or territory in which the inquest was conducted, to the minister of the Crown with responsibility for the relevant custodial agency or department, and to such other persons as the Coroner deems appropriate. As honourable members can see, recommendation 14 has been implemented fully by clause 25(4) as drafted and by the administrative arrangements already in place. Nowhere does recommendation 14 require that distribution of coronial findings and recommendations be mandated by legislation. For these reasons, proposed new subclause 25(4) is opposed.

Proposed new subclause (5) requires the Attorney-General to lay before both houses of parliament a report giving details of any action taken or proposed to be taken by a minister, agency or instrumentality in consequence of a coronial recommendation, and to send a copy of the report to the Coroners Court. The government opposes this proposed new subclause on a number of grounds. First, it will make the Attorney-General responsible for the conduct of departments headed by other ministers under acts of parliament committed to other ministers. This will blur the lines of ministerial responsibility. Secondly, it is unnecessary. There is no suggestion that the existing regime is not transparent in the sense that an agency's response to coronial recommendations cannot be pursued in an open and democratic way.

Inquests are held in open court. Copies of findings and recommendations are sent to all relevant persons and organisations and are publicly available on the Courts Administration Authority's web site or from the State Coroner's office on request. Importantly, a government minister or agency's response to coronial recommendations may be pursued through the relevant minister in parliament.

As to the requirement that the Coroners Court be provided with a copy of the Attorney-General's report, this will, essentially, require the court to release its findings. The

court's role is to inquire into events that are the subject of the act and, where appropriate, make recommendations. This role must remain distinct from the decision-making role of the government and public authorities. The court should not be placed under pressure to follow up implementation of its recommendations, which may well be the case if the government is required to report back to the court. In any event, this requirement is consequential upon the substantive amendment which, for the reasons I have outlined, is opposed by the government.

The Hon. R.D. LAWSON: I indicate the opposition's support for this amendment on the following grounds. First, as the Attorney has pointed out, it is already the practice of the Coroners Court to make available copies of findings to persons who appear before it. The requirement in the government's bill is that a copy of the findings and recommendations be forwarded to the Attorney-General. For what purpose they are forwarded to the Attorney-General is not made clear in the existing bill, but it is important that the first law officer be aware of these findings.

What is the harm in requiring the findings to be forwarded to those persons named in the amendment? True it is, of course, that the Courts Administration Authority web site now contains details of all inquests, and that is an initiative to be widely commended. However, there are many people in our community who do not have ready access to the internet. In those circumstances, it is appropriate to impose a requirement (which is already being met) that people have brought to their attention the existence of the findings, rather than their checking on the web site every day to see whether or not an inquest has been reported upon.

The point that failure to comply with the requirement might put a court in technical breach of its own regulations is not, in my view, a strong one. Legislation of this kind is very common. Many acts require ministers, departments and agencies to table reports in this parliament. The Statutory Authorities Review Committee has, in a very extensive investigation, shown that many ministers, departments and agencies are in technical breach of the requirement to report appropriately. However, is that a ground for removing the requirement to report? It is actually a ground for insisting upon some stipulation that they do report. No sanction is suggested for any technical failure to comply with this, nor can the Attorney point to any deleterious effect of this requirement.

It is also worth saying that this requirement applies to any deaths in custody. It is not related only to the findings of the Royal Commission into Aboriginal Deaths in Custody. For example, in South Australia we now have a number of people who are in custody under commonwealth laws. Tragically, there may be deaths in that form of immigration custody. It will be entirely appropriate that, if the Coroner is called upon to undertake such an inquest, a report be made to the commonwealth minister and that there be a requirement that that occur.

So, we certainly strongly support subclause (4) of the honourable member's amendment. As to proposed subclause (5)—providing the requirement that the Attorney-General, within six months after receiving a copy of findings, must cause a report to be laid before the parliament—I acknowledge that certain different considerations apply to that. On examination, however, I do not believe that that will be an onerous requirement. On the matter of deaths in custody, for example, if one looks at the latest annual report of the Department for Correctional Services, one will see that there has happily been a fall in the number of both indigenous and non-indigenous deaths in custody.

So, the number of occasions on which the Attorney would be required to cause a report to be laid before the parliament in relation to these matters would, hopefully, be very few indeed. Since 1990, there have been 57 deaths in custody in South Australian correctional institutions; during the period 2001-02 there were two deaths in custody. Of the 57 persons who had died in custody since 1990, 11 were Aboriginal and three of those deaths occurred from natural causes. So, the task of reporting to parliament on what action has been taken in relation to deaths in custody, whilst a significant task, will not be so onerous as to be impossible to comply with.

It is also worth mentioning in the context of Aboriginal deaths in custody that the government is obliged to monitor the implementation of the recommendations. In February 1998 the state department of Aboriginal affairs prepared a comprehensive report on what had happened in 1996 and 1997 in relation to the implementation of those recommendations. It is perhaps a matter of regret that such reports were not required on a more regular basis, but legislation of this kind does indicate to ministers, governments, agencies and public servants the requirement to be accountable and actually indicate to the community what they are doing in response to all these worthy recommendations that are being made.

I mentioned earlier the coronial inquest into petrol sniffing and the excellent recommendations that have been made by the Coroner. On a number of occasions I have asked the Minister for Aboriginal Affairs and Reconciliation what is being done about the implementation of those matters. The minister assures us that action is being taken, and I commend him for such action as is being taken, but it is important that there be some discipline in the system, and a measure of this kind is one way to achieve it.

The Hon. P. HOLLOWAY: I can only repeat the points I made. Obviously, it is subclause (5) that the government has particular difficulty with, particularly because it would make the Attorney-General responsible for the conduct of departments headed by other ministers. Also, paragraph (5)(b) is another matter of grave concern because, if you require the Coroners Court to be provided with a copy of the Attorney-General's report, this would essentially require the court to police its findings. I just repeat: the court's role is to inquire into events that are the subject of the act and, where appropriate, make recommendations. This role must remain distinct from the decision-making role of the government and public authorities. The court should not be placed under pressure to follow up implementation of its recommendations, which may well be the case if subclause 5(b) is approved. Essentially, they are the parts that concern the government.

The Hon. IAN GILFILLAN: I would like to express my appreciation of the substantial argument of support given by the shadow attorney-general. If it were not such a serious issue it would be very tempting to make some rather facetious remarks about people who sing from the same song sheet. However, I do want to make a sincere observation. I hope that the Attorney-General will not feel locked into what has been the argument presented at this stage and that he does take the opportunity personally to assess the values of these amendments so that we do have a chance (as near as possible) of this parliament unanimously endorsing the intentions of the recommendation of the royal commission.

Certainly, this one is a substantial one and, therefore, I am pleased to see that, at least on the surface, this chamber has the numbers to pass it. But I would urge the Attorney to take the time before the matter is finalised in the other place (if it is) to review it, at least from his own personal point of view.

The Hon. R.D. LAWSON: I would urge the Minister for Aboriginal Affairs and Reconciliation to exert his good offices to ensure that the government recognises the important obligations of this parliament to the Aboriginal people.

The committee divided on the amendment:

AYES (14)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Gilfillan, I. (teller)
Kanck, S. M.	Lawson, R. D.
Lensink, J.M.A.	Lucas, R. I.
Redford, A. J.	Reynolds, K.
Schaefer, C. V.	Stefani, J. F.
Stephens, T. J.	Xenophon, N.

NOES (5)

Gazzola, J.	Holloway, P. (teller)
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

PAIR(S)

Ridgway, D. W.	Gago, G. E.

Majority of 9 for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 26 to 38 passed.

New clause 38A.

The Hon. IAN GILFILLAN: I move to insert the following new clause:

Annual report

38A. (1) The State Coroner must, on or before 31 October in each year, make a report to the Attorney-General on the administration of the Coroners Court and the provision of coronial services under this act during the previous financial year.

(2) The report must include all recommendations made by the Coroners Court under section 25 during that financial year.

(3) The Attorney-General must, within 12 sitting days after receiving a report under this section, cause copies of the report to be laid before both houses of parliament.

This amendment deals with the substance of recommendation 17 of the Royal Commission into Aboriginal Deaths in Custody. It requires the Coroner to make an annual report to the Attorney-General on the administration of the Coroners Court and the provision of coronial services under this act during the previous financial year. The report must include all recommendations made by the Coroners Court under section 25 during that financial year, and the Attorney-General must, within 12 sitting days after receiving a report under this section, cause copies of the report to be laid before both houses of parliament—which is the substance of my amendment.

The only current reporting that is required is within the general Courts Administration Authority's annual report and is limited to matters of an administrative nature, providing information such as the number of inquiries, etc. A broader ability to report will allow the Coroner to more fully fulfil his or her role in the community. After all, the Coroner's role is effectively that of an ombudsman for the dead, which is a fairly dramatic way of putting it, but it emphasises the importance of a Coroner's report.

The Hon. P. HOLLOWAY: The government opposes this amendment. New clause 38A requires the State Coroner to report to the Attorney-General, on or before 31 October each year, on the administration of the Coroners Court and the provision of coronial services under this act during the financial year. Additionally, it requires that the report include all recommendations made by the Coroners Court under section 25 of the act during that financial year and for the Attorney-General, within 12 sitting days, cause copies of the report to be laid before both houses of parliament.

The requirement to prepare a report on the provision of coronial services and for the Attorney-General to table the report is already mandated under section 13 of the Courts Administration Act. This section provides that the authority must make an annual report to the Attorney-General, on or before 31 October each year, on the administration of justice in participating courts during the previous financial year and that, within 12 sitting days after receiving the report, the Attorney-General must cause copies of the report to be laid before both houses of parliament.

The Coroners Court is a participating court for the purposes of the Courts Administration Act. As I have already detailed to members, any member of the public or member of parliament has access to a coronial finding or recommendation. If this amendment stands, we have that reporting that has just been passed under new clause 24(5).

Parliamentary process allows for a government agency's response to a recommendation directed at it to be pursued through the relevant minister in an open and democratic way. Imposing upon the State Coroner and Attorney-General unnecessary administrative requirements will do nothing to improve the efficiency of the state's coronial system. For these reasons, the government does not support the addition of proposed new clause 38A.

The Hon. R.D. LAWSON: I indicate the opposition's support for this measure. One would have expected that a government which has proclaimed itself to be interested in openness and accountability would be delighted to support measures that are designed to make available to the community, through the parliamentary process, details of the activities of a body such as the Coroners Court.

I think it is important to note that the Coroners Court does have an increasing importance in our community. I have mentioned the Aboriginal petrol sniffing inquest (which is a very important document), but the Whyalla Airlines crash inquest, for example, is one that has taken up enormous resources and is very important for the state. Where you have a body that is tasked to undertake matters of that complexity and magnitude, it is appropriate that the court be able put in an annual report what it has been doing, what its resources are and what resources it needs, so that members of parliament and the public are aware of the activities, needs, desires and aspirations of the court.

True, the Courts Administration Authority's annual report (and it is a helpful annual report) will contain details of the activities of the Coroners Court and other courts, although the details of the activities of the Coroners Court contained in the Courts Administration Authority's Annual Report are scant to say the least.

We support the idea of an annual report for the Coroners Court, but it is worth mentioning that there are reporting mechanisms under things such as the Telephone Interception Act, where the Attorney is required to collect information and table it on an annual basis in parliament. That is not to suggest that the Attorney General has some overarching policing role in relation to the activities of the bodies and organisations for which he is required to table a report. The suggestion in the Attorney's earlier remarks in relation to a

previous amendment that there is some policing role being cast upon the Attorney seems to me to be inappropriate.

The Hon. P. HOLLOWAY: It is not inappropriate; it is just true, which is something the Liberals have difficulty understanding. The honourable member, of course, made some patronising remarks. He is good at that sort of thing; perhaps that is part of Liberal Party training.

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: No, we will not do it: we will let it stand as a monument to the honourable member's performance. When a government has been involved in so much waste, extravagance and incompetence for eight years, as members opposite were, it is not—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, they would. Why put in measures, which are not necessary, just to create difficulties and make departments less efficient than they otherwise might be? That is the tragedy of these things. It is a lost cause, but let us at least put some facts on the record. The Coroner is not an ombudsman: that is not his role. He is an inquisitor. As an inquisitor—unlike the Ombudsman—it is not his role to be answerable to parliament. I am informed that no other court prepares a report such as this. It is another little inconvenience and a case of getting public servants, instead of doing productive work, to do non-productive work—the Liberal way, presumably. There is not much point in continuing; let us have the vote.

The Hon. IAN GILFILLAN: It has been a long week, and we are not quite yet through it and I think some edges are getting a little frayed. I am certainly prepared to acknowledge genuine admiration to the current Attorney-General—not necessarily to his backbench, I might say. I am sorry that he seems to have cast the Coroner, the Coroners Court and the Coroner's report in the same role as any other court. The difference is that the people before the Coroners Court are the public and this parliament. It may well be significant to a lot wider field than just those who are involved in a court action in a court. That is the reason why the royal commission recommended strenuously that this rigorous reporting routine be complied with. I am stunned that the Attorney-General, so quickly, seems to have been driven into a partisan position, and that he is not prepared to stand at arm's length and look at an issue which, not so long ago, he was supporting. Where is the consistency in that?

The Hon. R.D. LAWSON: The Attorney-General was kind enough to accuse me of making patronising remarks. His remark that the Coroners Court is a mere inquisitor completely misses the point. The Hon. Ian Gilfillan has mentioned the public interest in this. The Coroners Court is different from every other court in that the Coroners Court makes recommendations designed to prevent or reduce the likelihood of a recurrence of an event similar to the event which was the subject of the inquest. The Coroner does have this unique function of making recommendations to the public. Those recommendations ought to be publicised widely and be made available in an annual permanent record tabled in this parliament, so that members of parliament and members of the community can have access to it on a permanent basis.

Members interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: We have just passed clause 25(5), which provides:

> If the findings on an inquest into a death in custody include recommendations made by the court, the Attorney-General must, within six months after receiving a copy of the findings and recommendations—
>
> (a) cause a report to be laid before each house of parliament giving details of any action taken or proposed to be taken by any minister or other agency or instrumentality of the crown in consequence of those recommendations; and
>
> (b) forward a copy of the report to the court.

Now we are saying that, as well as doing that, there is another clause—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: So we do it twice.

New clause inserted.

Remaining clauses (39 to 42), schedule and title passed.

Bill reported with amendments; committee's reported adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (NUCLEAR WASTE) BILL

Adjourned debate on second reading.

(Continued from 8 July. Page 2725.)

The Hon. A.J. REDFORD: It is my duty to present the opposition's view on this bill and the Public Park Bill to the Legislative Council, as I did earlier this year. We are again debating this issue mainly as a consequence of the Hon. Nick Xenophon's amendments to the May legislation. (He is now known as 'Barnacle' because of his propensity to attach himself to every issue that floods past him.) In particular, he moved a sunset clause which inevitably means that we have to go through all this again: I am reminded of the movie *Groundhog Day*. In this contribution I want to talk generally about the issue and then move to the bills before us. I ask members to listen avidly to this contribution and to remember that the Rann government has not offered one single solution to this parliament or to the people of South Australia as to how it proposes to deal with low and medium level nuclear waste that is generated within this state or is already currently stored within this state. It is a blank sheet.

Since being elected, the Rann government has sought to camouflage its lack of vision and policies for this state by running a not-in-my-backyard debate. It has done this by attempting to pass legislation that has two purposes: first, the prohibition on transportation and construction of a low level nuclear waste facility; and, secondly, the establishment of a referendum. The latter has stalled. The events of the past few days have confirmed the views of any intelligent commentator that the first of the purposes is unlikely to be achieved, and there are a number of reasons for that, including the capacity of the federal parliament to pass laws to override state laws.

In addition, litigation in federal courts and, ultimately, the High Court generally tends, based on past practices, to favour the centralised authority (in this case, the federal parliament and the federal government). In that respect, legislation introduced by the Hawke-Keating Labor government over 10 years ago, unanimously supported by ALP federal members and met uncritically by ALP state members (including the Hon. Mike Rann), was passed by the federal parliament. In addition, regulations and a process to establish a national dump in the safest place was signed off by a federal Labor government with the support of a state Labor government, of which the Hon. Mike Rann was a senior cabinet minister.

Indeed, I have had provided to me a copy of a press release issued on 3 June 1992 by the then Labor minister for science and technology, the Hon. Ross Free MP. The press release states:

> Ross Free, the Minister for Science and Technology, today moved to utterly discount claims regarding the future of radioactive waste storage at the Lucas Heights research laboratories. 'A specific clause will be included in the Australian Nuclear Science and Technology Organisation Amendment Bill currently before the senate to exclude Lucas Heights as a site of a national nuclear waste repository,' Mr Free said. These changes follow concerns raised by the Senate Standing Committee on Industry, Science and Technology and representations by local member Robert Tickner—

and how well we remember him. Indeed, the press release continues:

> Mr Free's statement follows Monday's announcement by the Minister for Primary Industries and Energy of a study to identify a suitable national repository site. The first part of the study, which will be completed within three months, will apply criteria that automatically excludes Lucas Heights as a suitable location.

The press release issued by the Labor minister continues:

> Taken together, these actions put beyond doubt the government's assurances of the Lucas Heights site. 'I understand that these assurances have now been welcomed by the Sutherland shire council,' Mr Free said.

It then goes on and characterises the then state government in a way in which this state government could equally be characterised. He says:

> Over the last few weeks, legitimate public concerns over safety issues have been cynically exploited by state government representatives in an attempt to divert attention from their incompetent administration.

How true that is. That is but one example of the involvement of the Labor Party in relation to the storage of nuclear waste in this country.

Despite an extraordinarily favourable media, an unprecedented campaign of misinformation and untruths, after 10 months the government managed to get a bill through parliament which prohibits the transportation of low level waste and the construction of a low level facility, which it concedes will be overruled by federal law and which expires on 19 July 2003. At the same time, the credibility and competence of one of the most senior ministers has been shattered, leading to the establishment of only the second parliamentary privileges committee in this state in its 166 year history, a committee that refused to hear evidence. How has it come to this one might ask? The answer is quite simple. We have allowed prejudice and fear to replace reason and fact in attempting to deal with this very difficult and emotive issue.

It is unfortunate that this has happened. However, in my view, the authors of this misinformation have brought this extraordinarily farcical situation upon themselves. As members are aware, in the late 1980s the then federal Labor government recognised that it had a national problem in relation to the storage of medium level and high level nuclear waste. It quite responsibly embarked upon a process to determine, first, what is the best way to store this stuff; and, secondly, where is the safest place to store it. As that process has unfolded, the federal authorities have split the decisions in so far as low level waste and medium level waste are concerned. The process has been long and tedious, and it has been marked by some political parties changing their views on where waste should be stored and how it should be stored.

I will not bore everyone with a long discourse, except to point out a few things. First, the process was determined by the then minister Simon Crean, who is now Leader of the Opposition. Secondly, the process was signed off and agreed to by the Bannon government—some might say even encouraged when the correspondence of Don Hopgood (the then deputy premier) is considered—of which the now Premier, Mike Rann, was a member. In that respect, I draw members' attention to a letter dated 21 October 1991 from the then Labor deputy premier to the Hon. Simon Crean. In that letter the then Labor deputy premier said:

> The South Australian government acknowledges the need for disposal facilities for radioactive wastes to be established in Australia. Together with all other states and territories and the commonwealth, South Australia has radioactive waste arising from medical, scientific and industrial uses of radionuclides awaiting disposal. We are also aware that future mineral processing opportunities could be jeopardised by the lack of a suitable disposal facility for radioactive by-products.

The letter goes on to state:

> South Australian government officials have participated from the outset in the collaborative development of proposals for national radioactive waste facilities through the commonwealth-state consultative committee.

It continues:

> I agree that South Australian officials should continue to take part in the desk study process with a view to preparing a short list of suitable sites for further discussion between the commonwealth and the state governments.

No clearer endorsement of the process that has been followed by the federal government exists than a letter from the Deputy Premier at that time endorsing that proposal. The legislative enactments for the establishment of a storage facility were passed through the federal parliament, with the support of the federal Labor opposition, and have the effect of overriding any state legislation.

In that respect, I draw members' attention to the comments made by the now federal Deputy Leader of the Labor Party when she was speaking on the Australian Radiation Protection and Nuclear Safety Bill 1998. In that bill, the Deputy Leader of the Labor Party said:

> It was the previous Labor government that actually initiated the process to establish a satisfactory system for nuclear regulations in Australia, and I am pleased today to see that this process is finally coming to completion.

It is clear that Labor did not seek to amend the power of the commonwealth to license the transport of radioactive waste and as a result override state law. The very legal instrument that gives the federal government a way around the states was supported by Labor—indeed, supported by Labor with the silent approval of the Premier, the Hon. Mike Rann.

The small nuclear reactor at Lucas Heights which is responsible for the production of important radioactive isotopes for medical treatment and medical research in this country is due to be closed. That announcement was also supported by the Hon. Simon Crean's ALP opposition. In the early days of 1994, the Keating government delivered to Woomera approximately 60 per cent of Australia's nuclear waste, which is now sitting there, as I said earlier, in a tin shed: some 10 000 drums, 2 000 cubic metres, of radioactive waste. The process, commenced by Simon Crean, has now reached the stage where the federal government through Minister McGauran has announced three preferred sites near Woomera as being the safest places in Australia to store this low level nuclear waste and, indeed, a preferred site was recently announced.

Having made that announcement late last year, the department prepared an EIS for the sites. The EIS, which was

assessed, picked a site and it was assessed by the Hon. David Kemp's Department for the Environment. I am aware that BAe is strongly opposed to one of the sites, and that was taken into account. So, it is in this context that I, as a South Australian politician, must consider the issue. We have two options: play politics, which is an exercise in futility, or determine a policy position which is in the best interests of South Australians, bearing in mind that, the last time I looked, South Australia was part of Australia. I know that in an act of desperation members opposite—and I will not deal with your contribution, Acting President: I understand that the Hon. David Ridgway has something to say about some of the misleading comments made in your contribution—

The Acting President interjecting:

The Hon. A.J. REDFORD: They are not my words, but I am happy to respond.

The Acting President interjecting:

The Hon. A.J. REDFORD: I have just been thrown off my stride. I am not used to interjections coming from the chair.

Members interjecting:

The Hon. A.J. REDFORD: You cannot hide in the chair, either. It has been said, as well as reported in the media, over the last couple of days that this will destroy South Australia's clean, green reputation. I do not know how many members have been up to this area. We have a couple here and the Hon. Terry Roberts has been up there, so I am pleased to see that some members have been there, but it is hardly on the main road of tourism in this state. If one looks at other countries such as France and Argentina that have storage of substantial high level nuclear waste, we do not see Australians refusing to buy their products as a consequence of their not having this clean green image. The most bizarre statement I have heard in this debate over the past few weeks was made by the Premier that it might affect our wine industry and that French wines may come in and take over markets we have developed.

The Hon. T.G. Cameron: That's whom we sell most of our uranium to from Roxby.

The Hon. A.J. REDFORD: The honourable member interjects with a very pertinent interjection. It beggars belief that those in the media and others who have the opportunity to directly question the Premier can swallow that furphy. It does their reputations as 'lean and nosy like a ferret' journalists no good.

We can also look at the issue of Maralinga, which is totally unrelated. We also know that the government has announced that medium level waste will not be stored in this state. If we keep up these sort of shenanigans we may well place at risk that decision, which will take nuclear waste out of this state, and I will come back to that in some detail. I remind members of an article that appeared in the *Advertiser* in August last year, in which it was disclosed that nuclear waste is kept in 26 suburbs and towns, and states:

> Nuclear waste is being stored in 26 South Australian suburbs and towns, it was revealed last night.

It continues:

> Environment minister John Hill said that sealed low level and intermediate level radioactive waste was being stored by hospitals, companies and laboratories in the city, Norwood, Elizabeth West, Glenside, Highbury, Mount Barker and several country areas.

Environment minister John Hill does not have a great reputation for fully disclosing facts.

The Hon. R.I. Lucas: Or reading documents.

The Hon. A.J. REDFORD: Or reading documents. He does not have a great reputation. A couple of weeks ago in the middle of Estimates Committees the erstwhile minister discovered that we have been dumping nuclear waste in open areas out at Wingfield. He did not disclose that when he gave this information to the *Advertiser* last year. The article goes on—and I hope members do not laugh too loudly as I have a fair bit to get through:

> The presence of this waste highlights the need for SA to develop a strategy to deal with our own waste, Mr Hill said.

The question is: what is South Australia's strategy to deal with its own waste? I cannot see why it has taken this government so long to come up with a strategy to deal with our own waste. It can deal with criminal conduct in closed meetings in the space of a fortnight, so it can certainly come up with some policy about how we will deal with our nuclear waste.

The inevitable result of this government's policy is that there will be nine radioactive waste dumps throughout Australia. If one looks at the mobility of Australians and the movement of people state to state, how on earth can any responsible government encourage a policy of nine separate radioactive waste dumps in Australia? I know that a number of us in this place have children who live in other states. We visit other states, and we could not rule out moving to other states. Yet, we are being so parochial in such a short and such a minimalist way that we overlook some of these issues. Indeed, Mr Hill, in January last year, said that he could not see any reason why we could not have all these nuclear dumps.

When we were in government, we tried to do something about the management of nuclear waste in South Australia. I have in my possession a minute dated 16 October 2001 from Graeme Palmer, Acting Manager of the Radiation Section of the Environmental Health Branch. The memorandum states:

> I refer to your request for information regarding the locations where low level radioactive waste suitable for disposal in a national repository are currently stored in South Australia. The radiation section recently completed a survey of radioactive waste currently stored by its owners in South Australia. The survey revealed that there are 217 registered sealed radioactive sources currently in storage throughout South Australia, which the owners would like to dispose of. These sources were previously used for medical, industrial, agricultural, construction and geological survey purposes. Of these, only 32 appear to be in the category that would not be suitable for disposal in a low level waste repository.

I will return to this memorandum, because one has to ask the question: why is it taking so long for the EPA to finish and publicly disclose the results of its audit, which was announced earlier this year by the minister?

The Hon. J.F. Stefani interjecting:

The Hon. A.J. REDFORD: The Hon. Julian Stefani makes another very pertinent interjection. The memorandum continues:

> The 185 sealed radioactive sources that may be suitable for disposal at a low level waste repository are currently stored at many sites in Adelaide (including the city, Kent Town, Frewville, Mile End, Osborne, Bedford Park, Mawson Lakes, etc.) and elsewhere around South Australia (including Whyalla, Millicent, Loxton and Olympic Dam). The owners of the waste include government departments and hospitals, universities and private companies. Other waste suitable for disposal in a low level waste repository currently stored by some organisations include old smoke detectors and static eliminators, contaminated materials and radioactive ore samples.

That is pretty compelling stuff. The memorandum further states:

> From a radiation safety viewpoint, the establishment of a national low level radioactive waste repository is highly recommended given the number of sources and owners. While many sources suitable for disposal in a repository present very little hazard to the community or the environment as currently stored, some could cause a significant hazard to people, industry and the environment if their control were not appropriately maintained. It is anticipated that another 50 currently registered sealed radioactive sources suitable for disposal in a repository may emerge in the next five years.

We have, within the next 18 months, the possibility of over 235 sites where radioactive sources are stored in this state, in the absence of any policy response from the government. So far, we have seen no action from the government other than stalling and lies.

In November last year the minister, the Hon. John Hill, responded to a question of the Hon. Iain Evans. I want to read that reply, because it is fairly important. The minister said:

> There will be a complete audit of where radioactive waste is currently stored in South Australia and its condition. The EPA is planning the audit now. It will be conducted by departmental officers, who will undertake site inspections throughout South Australia. The sites include approximately 120 companies and also laboratories and hospitals. In addition, uranium mines will be audited where waste storage practices and products and use will be examined.

So, back in August last year, the EPA was going to conduct an audit. We know from a memorandum that was prepared back in 2001 that the acting manager of the Radiation Section had already identified 217 radioactive sources in South Australia, yet this task is so difficult and so big that, as I stand here nearly 12 months after the commencement of the audit, we are yet to see the consequences of that audit. There are two ways of looking at this. We can either be critical of the EPA in that it has been unable to conduct the audit in a timely fashion, particularly in the political environment that currently exists; or, it just shows one the risks to South Australia under the current storage regime when it takes an organisation 12 months of hard work to identify and audit the sites.

No better argument, I suggest, could be submitted for the establishment of a single storage site for this material in South Australia. If it takes 12 months to audit this material, what happens if there is a problem or an emergency? How do we keep track of this stuff? We cannot guarantee that the EPA has been able to keep track of this stuff because we know that it takes nearly 12 months to conduct an audit. If anyone is to show any responsibility in the context of this debate, we have to come to understand that the way in which we currently manage this waste is inappropriate.

Earlier this year I asked a series of questions, and the Hon. Terry Roberts provided me with a number of answers. We on this side have been trying as hard as we can to determine some policy that might come from this government, and I am pleased to report that the government has announced some things. First, in an answer to my question of 20 February, the government said:

> The government has not ruled out the use of a national repository for the storage of South Australian radioactive waste should we be unsuccessful in blocking the proposed dump.

That is one policy that this government has. It goes on:

> The state government has not made a final decision regarding a temporary central store. As stated previously, the EPA is undertaking an audit of our current waste. After this audit is completed and the results are assessed, the government will make informed decisions about management of South Australia's low level radioactive waste.

In relation to this audit, the government stated:

> The purpose of the audit being undertaken by the EPA is to find answers to these questions. It is from an informed position that the government will be able to recommend the best form of storage for nuclear waste generated in this state and, accordingly, find out the costs associated with the types of storage and the time frames and consultation for any proposed programs for management.

That is what the government was telling this parliament back in February this year. Since then, we have had absolutely nothing but political rhetoric about what this government proposes to do with the waste stored at over 200 sites in South Australia. We have had absolutely nothing. This government constantly brings legislation into this chamber and expects us to make decisions in the absence of this important information. It seems to me that this government has behaved disgracefully in relation to giving us and the crossbenches information that will enable us to make informed decisions. Judging by comments that I have had from members of the crossbenches, they are now starting to see through this government.

The federal government, to its credit, has said that South Australia has carried its fair share of the load and will not get a dump for medium level nuclear waste. However, if every other state behaves in relation to medium level waste as this state proposes to do, the outcome that this government may well secure is the requirement on the part of this state to store medium level waste, a requirement that the federal government has announced it will undertake outside South Australia. This government does not think much further than its nose. I do not think that the government has thought its way through the longer-term consequences of its ridiculous strategies in relation to this process.

I have had an opportunity to consider these bills, and, first, I would like to say one good thing about the minister, and that is that he has relatively competent and capable staff who have bent over backwards, so far as the limits of his instructions are concerned, to provide me with as much information as they are able to give me. On Monday they provided me with a comprehensive briefing, and I thank his staff and those officers for the work they have done.

I turn now to deal with the bills and our position on them. First, the opposition understands that the effect of the Public Park Bill is to proclaim the site chosen by the federal government as a park. The bill is set to take effect from 3 June. I understand that the government's intention is to use this device to prevent the commonwealth from compulsorily acquiring the site. To do that there must be, as I understand it, the genuine creation of a park: a sham park would not do. In this respect, the briefing that I received from the government referred me to two cases. The first was the case of Jones and the commonwealth (1963) 109 CLR 475 and (1965) 112 CLR 206. That decision said that a public park, for the purposes of the commonwealth Land Acquisition Act, must allow public access to the area that has been proclaimed. I know that the Hon. David Ridgway will make some comments about the attitude of the landowners, and I do not wish to traverse any of that. The second case that I was referred to was the Queen and Toohey ex parte Northern Land Council (1981) 151 CLR 170.

In that decision the High Court held that a government could not exercise an administrative power for an ulterior purpose. It was put to me that that decision does not have any effect on legislation, that the courts will not look at ulterior motives in relation to a legislative instrument that is enacted by the whole parliament. The second bill amends the Dangerous Substances Act requiring an EIS and also creates

certain offences. I will deal with the specific provisions of that in a moment.

I raised a number of issues with the minister during the course of the briefing. On 9 July, which was yesterday, I received some answers to the questions that I asked. I firstly asked the question: 'What is the cost involved in creating the park?' The answer I received was this:

> The cost involved in creating the park is limited to the work undertaken by public servants to progress the procedural requirements. There is no budget allocation required for the creation of the park as the cost is being managed within existing resources.

When will this government ever learn? It takes away people's fishing licences and will not compensate them, and now it wants to interfere with the property rights of ordinary South Australians to advance some political debate, and it thinks that it can get away with it without compensating these poor people. This government knows no bounds when it comes to arrogance and trampling over people's rights. It simply does not care. If it thinks it can get a headline at the expense of some poor individual, then it will do so. So it thinks that it can grab this privately held South Australian land, take it from those people, and do it for nothing. All I can say is that this government does not seem to be able to learn anything.

I went on and asked some questions about parks generally, in an effort to determine whether it could be justified that this was the creation of a genuine park. I asked how many parks had been made recently, and I received this answer:

> The reserve system managed by the Department for Environment and Heritage comprises reserves proclaimed under the National Parks and Wildlife Act.

It goes on:

> Since the government took office the following additions to the reserve system have been completed: new reserves proclaimed under the National Parks and Wildlife Act, Baudin Conservation Park, Lake Frome Conservation Park, Nicholas Baudin Island Conservation Park, Riverdale Conservation Park, Lesuer Conservation Park and Cape Willoughby Conservation Park.
>
> Additions to existing reserves can be proclaimed under the National Parks and Wildlife Act, the Cape Hart Conservation Park, Cleland Conservation Park, Gum Lagoon Conservation Park, Investigator Group Conservation Park, Pinkawillinie Conservation Park, Seal Bay Conservation Park and Sturt Gorge Recreation Park.
>
> The minister has been advised that that land, which is community land within the meaning of the Local Government Act 1999 is also likely to be a public park within the meaning of the Commonwealth Lands Acquisition Act 1989.

I am grateful for minister giving that advice. I am not familiar with all those parks, but I do not see much in common between many of the parks that I do know and this area where they are proposing to create a park through the device of this legislation. I then asked the following question: 'Are there other parks that are also the subject of crown leases?' The answer I received is this:

> Section 35 of the National Parks and Wildlife Act 1972 enables the minister to enter into a lease for a specified purpose over land constituted as a park. Such leases range from grazing purposes—e.g. Chowilla Regional Reserve and the Innamincka Regional Reserve—to commercial visitor services—e.g. Mount Lofty Summit Restaurant and the Belair Caravan Park.

I am grateful for that answer. There was probably a misunderstanding of precisely what I meant. I would also like to know whether there have been any parks created over land which is already the subject of a crown lease in the manner that is happening here. The fourth question I asked was:

> Why is the regulation-making power in clause 12(2)(d) of the bill qualified by the words 'but not so as to interfere with rights granted to any lessee under the Pastoral Land Management and Conservation Act 1989', whereas other paragraphs of that clause, in particular paragraph (b), are not so qualified?

The answer I received was as follows:

> The purpose of the qualification in paragraph 12(2)(d) of the bill is to ensure the regulations enacted to protect the environment within the park do not interfere with the rights of the pastoral lessee. That qualification was not appropriate in relation to paragraph 12(2)(b) of the bill, which provides for the making of regulations regulating the use and enjoyment of the park by the public. Thus, public use and enjoyment may prevail to some extent over the rights of the lessee but not environmental considerations.

I will be very interested to hear the Hon. David Ridgway's contribution, in which he will tell us, in some detail, the attitude of the owners to this legislation.

The Hon. T.G. Roberts: Will you also give us their attitude to the compulsory acquisition?

The Hon. A.J. REDFORD: I am sure that, if the honourable member interjects, the Hon. David Ridgway will gird his loins and give an answer to that question, too.

The ACTING PRESIDENT (Hon. R.K. Sneath): Order! The Hon. David Ridgway will have his opportunity.

The Hon. A.J. REDFORD: I raised some other issues at the briefing, but I have not had answers to some of those. The first issue I raised was the process of consultation between the government and the Pobkes, who own the land. I understand that there was some consultation, but I would be most grateful to hear what the government says took place. I also asked whether the government has determined what costs have been incurred by the Pobkes as a consequence of this process, but I have not received an answer. In addition, I asked questions about signage and what the government was proposing to do in relation to the national park. The fourth issue I raised was that of compensation in relation to any reduction in value of the land owned by the Pobkes.

I do not think anyone in this government understands the concept of private property, because they trample over it. We saw this in relation to fishing licences and a number of other areas. One of the most startling pieces of arrogance that I have ever observed since I have been in this place was the shameful performance where the government refused even to talk to the owners of the Northern Tavern about what they had spent in pursuing their lawful entitlements, and it refused to compensate them. I understand that the rationale was, 'These people aren't entitled to a front-page headline, so we don't care about them.' The Pobkes have been on the front page a couple of times, so there is a remote hope that this government will deal with them sensibly.

An honourable member interjecting:

The Hon. A.J. REDFORD: Well, there is a better chance than in some other cases. Another issue that I raised at the briefing was in relation to the EIS process. The Statutes Amendments (Nuclear Waste) Bill amends the Dangerous Substances Act to require a person transporting nuclear waste to prepare an EIS. Members would be aware that the EIS process is not the fastest process in the world. I would be grateful if I could have some estimate from the government as to what it thinks would be the cost of such a process.

I also asked a question about the Major Developments Board. If this bill goes to committee, I have a concern about some other aspects of the clause. In that respect, I refer the minister to clause 6 and in particular proposed new section 22A. The provisions of that section apply if the minister had declared under section 46 that the conveyance of nuclear waste was a kind of project to which the section applied, and every proposal to convey that waste, as evidenced by an

application for a licence, was a proposed project for which an EIS must be prepared. The section then goes on and provides:

If a competent authority receives an application for a licence to convey nuclear waste, the competent authority—

(a) must refer the action to the minister; and

(b) must not make a decision on the application without first having regard to—

(i) the EIS prepared in relation to the proposed conveyance as required by this section; and

(ii) the associated assessment report prepared by the minister in accordance with section 46B(9) of the Development Act.

It does not say when the minister is required to prepare the assessment report. The minister might never prepare an assessment report; then we would have nuclear waste sitting in the 230-odd sites around Adelaide. This is the absurdity of this whole process: we are sitting here making minute legislative changes and establishing legislative instruments in the complete absence of any government policy or any information from the Environment Protection Authority. I am concerned about that.

Of significant concern has been the way in which the opposition has been treated in another aspect. I asked for a briefing by the Environment Protection Authority, and that briefing has been refused. I do not know of any previous occasion where a member managing a bill on the part of the opposition has been denied a full briefing prior to dealing with legislation. I acknowledge that the EPA is a statutory body and that it is technically independent from government, although in the case of the EPA it is a bit more complex than that, but I will not go into detail. I do not blame the minister's staff in this respect, but I deprecate the practice of not briefing the opposition as fully as possible prior to dealing with legislation such as this.

What does the government have to hide? This audit was commenced nearly 12 months ago; it must have some information; there must be some preliminary views; there must be some tentative attitudes or some challenges which the government has to address and which have already been identified, yet the opposition is denied that very important information. I would be very interested to hear if any of the cross-benchers have received any of this information. Have the Hons Andrew Evans and Nick Xenophon been given the full amount of information that the EPA currently has available to it, or are we to deal with this bill in the absence of that important information? It is fundamental to the way in which our democracy works through the parliamentary process that members of parliament are given all available information, yet we have continually been denied that information.

I am also concerned about this impending litigation that seems to be headed our way as a consequence of the attitude of both our state government and the federal government. On any analysis, litigation—and I can speak from personal experience, both as a lawyer and as a litigant (the latter being more painful)—is not cheap. I also know that when governments embark upon litigation they must behave in a certain fashion. The government is often described, in a legal capacity, as being a model litigant. In other words, it must behave as a model citizen when it litigates matters.

Indeed, I know that, from time to time, the federal Labor Party and the Democrats federally have been critical of the current federal Attorney-General for not behaving as a model litigant. That is a debate that happens in another place and I will not go down that path. However, I stress that because the government in this case does understand, I would hope, that it is important to behave as a model litigant. Indeed, in March this year the former attorney-general attended the 2003 Public Sector Lawyers Seminar. The then attorney-general addressed that seminar and he talked in some detail about the role of the government as a model litigant and the responsibilities imposed on public sector lawyers to achieve that status.

I am pleased to see that he has done that, and I would hope that the Hon. Paul Holloway (in what we all hope on this side of the chamber is a long tenure in this new office of Attorney-General) will take note of his speech. In fact, I would urge the Hon. Mr Holloway, if he has nothing else to do tonight, to read the Hon. Michael Atkinson's speech on that occasion. But one of the important things about being a model litigant is that you do not embark upon legal processes if they are likely to be an exercise in futility; and governments do not behave as a model litigant if they seek to enforce a legal position that simply cannot be enforced.

So, in that sense, I want to know a number of things: first, I want to know—and I understand that it would not be appropriate to disclose the actual legal advice and I am not seeking the actual legal advice—whether or not the Solicitor-General has given advice on this particular bill. Secondly, I would like to know whether or not the Solicitor-General has said that there is any prospect of success in upholding the government's position should this legislation be passed. Thirdly, without disclosing the basis or the reasons for it, I would like to know whether the Solicitor-General is confident that he can hold this legislation should it go through parliament.

The Solicitor-General is independent, and I know that he would not (or he had better not, anyway) sully his reputation by preparing an opinion that would suit the government's political purposes: rather, he would prepare an opinion that would give the government advice with candour so that the government can behave as a model litigant. I would also like to know the amount of costs. Someone told me the other day that the minister has been telling people that it will cost only $800. I cannot believe that. This is not the sort of situation where, as happened with the former attorney-general, you could ring up an old mate and say, 'Listen, can you do this for free, and I'll give you a job later on?' This is a lot different. In this situation, you would have to engage someone such as the Solicitor-General, and his time is costed out. There is a process that must be gone through, unless the government has changed it. We want to know what it is likely to cost.

The first thing we want to know is what it is likely to cost in the Federal Court, because I understand that, following the passage of this legislation, this government would then go to the Federal Court and seek an injunction against the commonwealth to restrain it from exercising its capacity to compulsorily claim and acquire the land. I suspect, given the nature of this, that evidence would have to be given and a whole range of things attended to in the Federal Court. I also suspect that some period of time would elapse before a decision was made, and I am pretty confident that (as night follows day) whoever loses would flick it off to the High Court. Again, this would not be a cheap process.

So, I want to know what it will cost the government to go through this process. I want this on the record, and I want the minister to do this carefully, unlike other things that he does. I also want to know whether there is an estimate of the likely costs to be incurred by other people affected by any litigation. Obviously, the commonwealth would be involved and possibly other parties such as the Pobkes. So, I would like to

be given an estimate of what their costs are likely to be so that we can assess those, because we are not talking about $800 or even thousands of dollars or tens of thousands of dollars; I think we are getting into the area of hundreds of thousands of dollars. That is why it is so important for us all to understand and be given an assurance by someone who knows what they are talking about (such as the Solicitor-General) that there is at least some chance of success.

I now turn to the second part of the nuclear waste bill and the creation of offences, and I would be grateful if the minister would comment on this. The law is unclear about how far we can go in terms of extra territoriality. The bill seeks to create an offence in South Australia for someone who seeks to participate in the transportation of nuclear waste into South Australia. A couple of offences are created. First, it prohibits the transportation of nuclear waste into the state and it creates a fairly heavy sanction (clause 7). My first question to the minister regarding this clause is: has the minister sought advice from the Solicitor-General regarding the validity of such a provision? In particular, I would like the Solicitor-General to say whether or not this provision offends section 92 or any other section of the Australian Constitution. The second part of clause 7 provides:

> (2) A person who supplies nuclear waste to another person is guilty of an offence if—
>
> (a) the person supplies the nuclear waste to the other person for transport to a nuclear waste storage facility in the state; or
>
> (b) the person believes, at the time of supplying the nuclear waste to the other person, that there is a reasonable likelihood the other person will transport the nuclear waste into the state,
>
> and the nuclear waste is subsequently transported into the state by the other person.

It is arguable that that would have some extraterritorial impact, but what happens if every other state starts passing laws that conflict with this provision? What happens if a law is passed in the Victorian parliament requiring the Prince Alfred Hospital to deliver its nuclear waste to a transport operator for the purpose of delivering it into South Australia? Under the South Australian law, there would be an offence if they do it, while under the Victorian law, in that case, there would be an offence if they do not do it. I would be interested to know what the government proposes to do if that is the response of other states in relation to this. So, that sums up my concerns in relation to that.

In conclusion, the government is embarking upon a very slippery slope. We have already seen earlier this week in the *Advertiser* a statement from Mr Gallup—the Premier of a state that makes up a significant proportion of this country—that his state will not have medium level waste, and he will do everything he can to stop it. Premier Beattie seems to be about 100 times cleverer than the Premier we have in this state—

The Hon. D.W. Ridgway interjecting:

The Hon. A.J. REDFORD: Yes, that's true—and he is probably going to do the same. He is going to sit there and say, 'Gee, if it works in South Australia, I'll do it here.' So, what then? What happens to medium level waste? Will it be the position that the only place left to safely store medium waste in this country where the commonwealth cannot be prevented from storing it is Woomera, and we finish up, through some headline seeking tactic adopted by this government, getting not only the low level waste but all of it, including the medium level waste? I am not sure that the government has thought its way through this and many other issues.

The final point I will make—and I have said it earlier in this contribution—is this: what are the government's proposals in relation to dealing with our own nuclear waste and the 2 000 drums currently sitting up in Woomera? The government has had nuclear waste at the top of its political agenda since it secured office back in March last year, and it has had sufficient time to come clean with a policy, but it has failed to do so. In that respect, the government has let down this parliament and the people of South Australia. So, with that contribution, I urge members to seriously consider whether we need to deal with this legislation with any degree of haste at all.

The Hon. D.W. RIDGWAY: I rise to speak against the establishment of a public park in the Outback of South Australia. I intend to outline some of the views of the people who own the property known as Arkoona Station. However, first, I will outline some of the lies, furphies and untruths in the contributions of the Hon. Bob Sneath and his sidekick the Hon. John Gazzola.

The Hon. R.K. SNEATH: I rise on a point of order, Mr President.

The PRESIDENT: Order! I think the honourable member means 'some of the inaccuracies'. Would the honourable member like to withdraw those remarks and use the word 'inaccuracies'?

The Hon. D.W. RIDGWAY: I am sorry. I look at the Hon. Bob Sneath's contribution, and one of the points he made was as follows:

> They do not know where the bush is—they have absolutely forgotten. What they are going to do with the bush is dig it up and fill it up with waste. [They do not know where the bush is].

For the council's information, I do know where the bush is. My colleague the Hon. Terry Stephens and I visited Arkoona Station the week before last and we travelled some 1 800 kilometres in the north of the state to learn more about this issue.

Earlier in his contribution, the Hon. Mr Sneath also mentioned the mistrust of the federal government. He said:

> Who could believe a government that told us that it would not introduce a GST?

If the honourable member can recall, the Liberal government led by John Howard was the only government in the western democracy that went to the people and said that it was going to introduce a new tax system and a GST. Also, I look at the comment he made about the French wine industry. My colleague the Hon. Angus Redford highlighted that, as well. He said:

> We can imagine what the French will do when there is a big market up for grabs. They will say, 'You shouldn't get it from South Australia. They have nuclear waste buried everywhere.'

No-one is intending to bury it everywhere, and we know that France gets 70 per cent of its electricity from nuclear powered power stations. The honourable member has not researched the subject very well. He said, 'Of course, we do not want another shame of Maralinga.' This is nothing to do with Maralinga. This is the Labor Party's attempt to cloud the issue and throw up all sorts of emotional arguments which have no relationship at all with the issue. He talks about the Liberal Party and its being thrown out of office. The member for Grey, Barry Wakelin, has increased his margin from an almost negative 1 per cent to plus 14 per cent in the last three

terms. It will never happen to the honourable member. After that appalling effort by the Hon. Bob Sneath, the Hon. John Gazzola said:

I note the excellent contribution of my colleague, Bob Sneath, who is often out in the bush ascertaining the views of people who live and work there and who do not want the dump.

The Hon. A.J. Redford: John wouldn't have meant that.

The Hon. D.W. RIDGWAY: My colleague interjects that he wouldn't have meant it. At one stage, he was not sure, but now he is mistaken. However, as we all are aware, members of the Legislative Council have a statewide franchise. It is our responsibility to meet with the people about whose lives we make decisions on a daily basis. About a fortnight ago, my colleague the Hon. Terry Stephens and I travelled to the north—Coober Pedy, Roxby Downs and Arcoona Station, a property owned by the Pobkes. In a discussion with Mr Pobke, I indicated that I would be happy to present to the Legislative Council any issues he wanted raised on his behalf. I know a number of members may have seen a copy of this statement, but I did give him an undertaking to read it into *Hansard* today. The statement to the upper house by Andrew and Leean Pobke states:

1. The holders of the Arcoona Pastoral Lease, Andrew and Leean Pobke, ask members of the upper house to vote against the government's parks bill.

2. The Pobkes do not want a radiation repository on their land, and they do not wish to convey the impression that they are agitating for the repository. However, they consider the parks bill to be a totally inappropriate way for the state to approach the matter, and they are strongly opposed to the bill.

3. First, it sets an extraordinary precedent for the state government simply to pass a law taking away a person's private ownership rights over land, and to do so irrespective of that person's rights under the Real Property/Pastoral legislation which has protected private rights of lands tenure so well for so many years.

4. No member of the house would countenance the state passing a law simply removing a member's ownership rights over his or her home, however idealistic the motives behind the law might be. The state already has laws for compulsory acquisition of land, or for the redemption of pastoral leases. Simply to bypass these laws through an act of parliament removing private rights of ownership sets a dangerous precedent which the public at large would be very concerned about if they fully understood its ramifications.

5. Secondly, the parliament should not, as a fundamental principle, be passing laws entirely for ulterior purposes. The state has no true intention of there ever being a park, in the real sense, in the middle of the Pobkes' land. Passing the parks bill in these circumstances is fundamentally irresponsible. If the issue cannot be tackled in a proper, open way, it should not be done through legislation which does not mean what it says.

6. Thirdly, the Pobkes do not accept the statements made to them by the state government representatives that the passing of the parks bill will have no practical effect upon them. Although there might be presently some limited rights of public access over a lease, declaring a park in the middle of the lease could easily attract an unprecedented level of attention to their land, including unwanted attentions of curious holiday makers and various travellers along the main highway who decide to take the (very short) detour required to drive to the 'park'.

7. The house needs to appreciate the significant detrimental effect which will arise from any significant level of public activity on the Pobkes' land. Many sensitive farming activities occur at various points in the year. For example, many thousands of ewes are presently lambing. Unwanted public attention can easily startle ewes, causing them to abandon their lambs which then die. Additionally, mustering operations during shearing can easily be detrimentally affected by such (uncontrolled) activities on the land.

While I was there, Mr Pobke indicated that there are seven gates to open and shut on the way to the proposed park. If it is a public park, who will be liable for the damage done to his stock and property when the gates are not shut? The statement continues:

8. No proposals have been put by the state government to control such activity on the land. Nothing has been suggested as a solution even to simple issues such as securing fences and ensuring that gates are kept closed. Is the state government proposing to spend anything like the amount of money which the commonwealth will no doubt be required to spend to ensure appropriate security in respect of the access track?

9. Fourthly, there has been little or no consideration for the safety and well-being of the people who will inevitably travel (even if out of curiosity) to this bizarre 'park'. The access track is in very poor condition, and travellers (particularly in two-wheel drive vehicles, of which there are many thousands travelling the adjacent highway) could easily become stranded in this desolate place due to general impassibility of the track. Is the state government proposing to spend the hundreds of thousands of dollars which would be required to improve the track to passible condition? Is it proposing to have a ranger who will be there to ensure the safety of visitors to the park? If not, is it proposed to isolate the track so that the public cannot access it and thereby not perish in this desolate place? But if it is to be isolated, then this highlights the farcical nature of the legislation.

10. Fifthly, nothing is proposed in the bill about who is to bear responsibility for liability issues arising from the public's use of the park. A tragedy in the park (which could easily occur, given the fact that the area is very dangerous, especially in summer) could have catastrophic financial consequences for the Pobkes if they are caught up in a claim in that regard.

11. Sixthly, the Pokbes see the repository as being inevitable. A realistic, as opposed to an unreasonably optimistic, view of the legal position is that the commonwealth will, ultimately, prevail in any legal challenge. The Pobkes therefore see there as being two options:

11.1 a repository being built now; or

11.2 a repository being built in a few years' time, after years of litigation.

The only benefit to anyone out of option two above is political gain for the present state government.

12. Seventhly, it should be placed on the record—

and this is a very interesting point and is a trend that is appearing with this government—

that the state government did not ever seek to consult with the Pobkes about the Park Bill or the concept behind it. Although the Crown Solicitor's Office telephoned the Pobkes' solicitor when the commonwealth's decision to acquire site 40a was first announced, that call was only to request that the Pobkes give copies to the state of any documents which they receive in relation to the acquisition. That call hardly amounts to consultation over the Park Bill. Although that telephone call was not, ultimately, returned by the Pobkes, that hardly gave the state government the green light to then completely ignore the Pobkes in relation to the proposal to simply take away from them part of their land.

13. Finally, Minister Hill has recently made public comments referring to the Pobkes as tenants. Holders of a Crown or pastoral lease do not have the same status as mere tenants in the general sense. Crown or pastoral leases are bought and sold much in the same way as certificates of title. As long as a pastoralist complies with the conditions of the lease and the pastoral legislation, he is entitled to expect similar rights of tenure as the holder of the freehold. Although the Crown has a reversionary interest in the land, it is not the landlord, and the Pobkes are not the tenant, as the public would generally understand those terms.

So, as members can see and on my understanding, at no stage has anyone representing the government spoken to any of the landowners in question.

The Hon. T.G. Cameron: Did the Pobkes pay for the lawyers to write that?

The Hon. R.K. Sneath: Did you pay for them?

The Hon. D.W. RIDGWAY: I certainly did not. The Pobkes have asked me to insert this statement in *Hansard* on their behalf, which I have done. As members can see, the Pobkes are very concerned that the government certainly has not consulted with them and that this is unfair and unrealistic. I beg all members of the Legislative Council to respect the Pobkes' wishes and vote against this bill.

The Hon. T.G. CAMERON: I suppose I should first of all thank the Hon. Angus Redford and the Hon. David Ridgway for destroying about three-quarters of my speech during their contribution. It was my intention to go through the Andrew and Leean Pobke correspondence but, as the Hon. David Ridgway has done that, I will place some questions on notice. Quite simply, in my view, this bill is about the next federal election. We have four marginal seats in South Australia and, in my opinion, this campaign by the South Australian government in relation to where low level waste will be reposited is part of the South Australian branch's broader campaign to win back the seat of Adelaide. That is what these bills are about—

The Hon. R.K. Sneath interjecting:

The Hon. T.G. CAMERON: The Hon. Bob Sneath interjects, and I hope he continues to do so because it will enable me to fill out the next 35 minutes.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Seven? We are going until 6.30 p.m, I understand.

The PRESIDENT: That is not compulsory.

The Hon. T.G. CAMERON: I can seek leave to conclude at 6 o'clock, if you would like.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: I will seek leave to conclude at 6 o'clock; that will suit me fine.

The PRESIDENT: You can do that now, if you so desire.

The Hon. T.G. CAMERON: No, there are a couple things that I would like to put on the record. In view of this bill coming before the council, I wrote a letter to the minister, John Hill, on 5 June in which I said:

> My office recently contacted the Environment Protection Agency to find out the radiation levels of the low level nuclear waste currently held in South Australia's hospitals and universities. I was informed that it was necessary to write to you personally for this information.
>
> I would appreciate if you could supply such information as quickly as possible due to the forthcoming debate on the Statutes Amendment (Nuclear Waste) Bill.

I received a reply on 25 June which said:

> Dear Terry,
>
> Thank you for your letter of 5 June 2003 concerning the amount of low level radioactive waste held in South Australia's hospitals and universities.

Firstly, I was not writing to the minister about the amount of low level radioactive waste, so I wonder whether he even read my letter. I was not inquiring about that. The information that I was after was—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: That may be the case. However, I was attempting to find out what the radiation levels of this low level nuclear waste is and what the range of levels were. I am not after the amount of low level radioactive waste held in South Australia's hospitals and universities, what I am seeking to do is to find out what the level of radioactivity is. The minister then went on to say:

> I am advised that the Environment Protection Authority (EPA) has nearly completed the audit of radioactive material, including waste, stored in South Australia. Hospitals and universities were included in the EPA's inspections of sites where radioactive material is stored.

He then went on to say that they were preparing an annual report and that it would be a couple of months before I received a reply. Whilst I was doing some research into what the minister had been saying about this matter, I tripped across some comments he made in *Hansard* in the House of Assembly on 23 June. On page 163 he said:

> While I am mentioning radiation protection issues, I would like to advise that the EPA has completed the physical audit of radioactive materials in South Australia.

They both cannot be right. His statement to the house on 23 June that they completed it was contradicted by a letter signed personally by him and dated 25 June. I would like to know which is correct, because no matter how much I have tried to read these letters and what the minister has said (because I do have a bit of time for the minister), there is no way—

The Hon. A.J. Redford: Have you tabled the letter?

The Hon. T.G. CAMERON: Not at this stage.

The Hon. A.J. Redford: I am asking you to—you read a quote from it.

The Hon. T.G. CAMERON: I am happy to table the letter. I seek leave to table the letter.

Leave granted.

The Hon. T.G. CAMERON: They both cannot be right. No matter how much I have read the letter there is no way that both the correspondence to me and his statement—

An honourable member interjecting:

The Hon. T.G. CAMERON: Well, I suspect that he has misled me, whether by accident or design I do not know, but I would ask the minister to have a look at that. As I have only a little time left, and to be fair to the government, I intend to put some questions on notice and I will come back to my contribution later. That will give the government the opportunity to address my questions over the weekend. My questions are:

1. Why has the government proposed significantly higher penalties, that is, $500 000 and 10 years, in the Statutes Amendment (Nuclear Waste) Bill yet the existing act has a penalty of only $10 000? I make the point that this penalty is 50 times higher than the existing penalty, yet the level of radioactivity in the material is almost the same.

2. What are the levels of radioactivity of the low level waste to be stored at this site? I do not want to know the amount; my letter asked for the levels of radioactivity.

3. Can the minister assure the council that all members of the cabinet are supporting the Public Park Bill?

4. What action will the state government take to deal with the problems outlined by Andrew and Leanne Pobke in their fax to members dated 9 July, particularly the problems outlined in their points 8, 9 and 10?

5. Has the physical audit being conducted by the EPA been completed or not? If so, was it completed before or after 23 June?

6. What are the estimated costs of the legal action to take place in the Federal Court and the High Court?

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Just on that audit, what concerns me is that the information I am attempting to get hold of is available. It does not require the completion of their report. I am not asking for the amounts of radioactivity, where it is situated and how it is being stored. I just want to know what is the level of radioactivity of this material.

I make the point (and I will finish on this) that when I asked what was the radioactivity level of the 4 000 tons of uranium oxide that is transported through our state from Roxby Downs, the answer I received was as follows:

> I am advised by the EPA that uranium oxide is transported within the category known as low specific activity material and is not considered to be highly radioactive.

The term 'specific activity' refers to the concentration of radioactivity in the material. Uranium oxide has a specific activity of approximately of 2.5 x 10^4 becquerels per gram. That is, the total level of radioactivity of this waste is 100 x 10^{12}. For those who are not quite sure what that is, it is 1 000 000 000 000 000. It is a hell of a lot of radioactivity! In the correspondence from the minister I asked:

> Is this uranium oxide more or less dangerous than the low level radioactive waste?

The minister then went on to say:

> I am advised by the EPA that, in the context of transport of radioactive material, neither uranium oxide nor low level radioactive waste can be considered dangerous. The hazards associated with an accident involving a spill of uranium oxide or low level radioactive waste cannot easily be compared. . .

Further in the correspondence he states:

> I am advised by the EPA that the very low risk of transport of uranium oxide or low level radioactive waste cannot easily be differentiated.

The minister himself states that there is a low risk of the transport of uranium oxide or low level radioactive waste. Then why is it—

The Hon. R.I. Lucas: That's not what everyone is being told.

The Hon. T.G. CAMERON: No, of course it is not. He further states in correspondence:

> An offence against the Radiation Protection and Control (Transport of Radioactive Substances) Regulations 1991 is a summary offence and the maximum penalty imposed is $10 000.

However, under the Statutes Amendment (Nuclear Waste) Bill of 2003 they are proposing a penalty of $500 000 or imprisonment for 10 years. In the case of a body corporate it is $5 million. Yet, the minister states in the same correspondence that the uranium oxide being transported through our streets is the same level of radioactivity and that, in his words, 'neither can be considered dangerous'.

The Hon. A.J. Redford: Do you reckon Western Mining say that?

The Hon. T.G. CAMERON: I don't know. It displays the hypocrisy and mess the government must be in as it pulls out of the rabbit's hat like a magician some new plan to try to circumvent what the federal government is doing. The bill specifies that the Governor may, by regulation, exempt a person from the application of these penalty provisions. Why is that provision in the bill, and under what circumstances does the government envisage that the Governor may, by regulation, exempt a person from the application of these penalty provisions? I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 6.3 p.m. the council adjourned until Monday 14 July at 2.15 p.m.