# LEGISLATIVE COUNCIL

**Tuesday 15 July 2003**

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

## PAPERS TABLED

The following papers were laid on the table:

By the President—

Supplementary Report of the Auditor-General, 2001-2002—Process of Procurement of a Magnetic Resonance Imaging Machine by the North-Western Adelaide Health Service

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Regulation under the following Act—
Stamp Duties Act 1923—Recognised Financial Markets

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Animal and Plant Control Commission—South Australia—Report, 2002
Education Adelaide Charter.

## QUESTIONS ON NOTICE

**The PRESIDENT:** I direct that written answers to the following questions be distributed and printed in *Hansard*: Nos 70, 225, 233, 264 and 269.

### MUSIC HOUSE

70. **The Hon. SANDRA KANCK:**

1. (a) Was there ever any written expectation provided to Music House Inc. that they would make a profit?

(b) If so, was there a timeframe for such a profit to be made?

2. When was the business plan, which was drawn up by Music House Inc., provided to the Department of the Arts?

3. Did that business plan show that Music House Inc. would have any difficulty in making a profit?

4. (a) What was the response of the department to the Music House Inc. business plan?

(b) Was that response provided in writing?

(c) If so, when?

5. (a) When did the Premier and Minister for the Arts become aware of the existence of Music House Inc.'s business plan?

(b) What was the Premier's response?

(c) Was there any written or other communication between the Premier and Music House Inc. following his becoming aware of the business plan?

6. (a) Did Music House Inc. seek to meet with the new Minister for the Arts?

(b) If so, when were approaches made and what was the response?

7. (a) Did Music House Inc. seek to meet with the Minister Assisting the Premier in the Arts?

(b) If so, when were approaches made and what was the response?

**The Hon. T.G. ROBERTS:** The Minister Assisting the Premier in the Arts has advised that:

In February 2002, a funding agreement was developed between Arts SA and Music House Inc. to transfer the remaining funds originally provided by the Commonwealth through Arts SA as part of the Contemporary Music Development Package. This agreement included, as an attachment, Music House Inc business plan, dated August 2001.

The Business Plan had been provided to Arts SA in December 2001. While the business plan indicated that Music House Inc would be likely to incur an operational deficit in 2002, it indicated the remaining Federal Government funds, as well as funding from other programs, would be sufficient to sustain the organisation until 2005.

The Business Plan refers in three instances to Music House becoming self-sustaining. This indicated it aimed to generate sufficient revenue to cover expenditure. Music House Inc was expected to deliver its program over the two-year period of the agreement (1 January 2002 to 31 December 2003) within budget.

Therefore, Arts SA agreed to provide Music House Inc with the above-mentioned Commonwealth funds and $40 000 State funding towards its 2001-02 operations. Arts SA then drafted the funding agreement and, separately the then Minister for the Arts wrote to Music House approving its annual funding.

Music House did not make written requests for meetings with either the Premier or myself at any time, however representatives of Music House Inc. met with ministerial staff from both the Premier's office and my office during the year. The Chair of Music House Inc Steve Riley, wrote to the Premier 13 May 2002 thanking the Premier for a government grant. This letter included a general invitation for the Premier to visit Music House at a convenient time. Mr Riley has advised he does not regard this as a formal request for a meeting.

### MEMBERS, REGISTER OF INTERESTS

225. **The Hon. A.J. REDFORD:** Would the Minister provide the names of the persons listed in the report laid before the Legislative Council on 17 February 2003, pursuant to section 69(6)*(b)* of the Public Sector Management Act, who are members of the family of a member of Parliament (as defined in section 2 of the *Members of Parliament (Register of Interests) Act*) and what is that relationship?

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

I have been advised that Ms Melissa Bailey has declared that she is the spouse of a Member of Parliament.

### SEXUAL OFFENDERS TREATMENT AND ASSESSMENT PROGRAM

233. **The Hon. R.D. LAWSON:** In relation to the Sexual Offenders Treatment and Assessment Program (SOTAP)—

1. What are the eligibility criteria for participation in SOTAP?

2. What services were provided by SOTAP in the year ended 30 June 2002?

3. What services are now provided by SOTAP?

4. During the year ended 30 June 2002—

(a) How many persons received services from SOTAP?

(b) How many persons were participating in the program as at 30 June 2002?

(c) How many participants were mandated to attend—

(i) by order of a Court;

(ii) by the Parole Board; and

(iii) by some other, and if so what, authority?

(d) How many participants elected to attend on a voluntary basis?

5. How many staff, including employees, contractors and consultants, were employed in SOTAP—

(a) on 30 June 2002; and

(b) at present?

6. Has SOTAP developed any expertise in the provision of services or support to indigenous people since the sentencing remarks of Justice Gray of the Supreme Court in the *Scobie* case [2003] SASC 84 (see paragraphs 55 and 56)?

7. (a) Are there any plans to develop such expertise; and

(b) If so, what are the plans?

8. (a) Has SOTAP, or of its programs, been the subject of any evaluation or audit of their effectiveness?

(b) If so—

(i) Which programmes; and

(ii) What are the dates and details of each such evaluation or audit?

9. What has been the annual expenditure on SOTAP for—

(a) 1998-99;

(b) 1999-2000;

(c) 2000-01; and

(d) 2001-02?

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

1. Attendance in the program can be voluntary (ie. self-referred) or mandated.

To attend individuals:

· must be 18 years old; and

· have committed a sexual offence (e.g. sexual harassment, indecent assault, unlawful sexual intercourse, and/or accessing Internet child pornography) against a child (ie. a person under 17 years as described in Section 49 of the Criminal Law Consolidation Act 1935).

Clients should be able to acknowledge their offending behaviour.

The service is extended to people who have a concern that they have an abnormal sexual arousal to children and may act upon the arousal.

The service is also extended to a partner/close friend/relative who requires information and support from SOTAP or who is prepared to play a role in assisting clients remain offence free.

2. Services provided by SOTAP in the year ended 30 June 2002 include:

· Country program (ie. weekly visits to Port Augusta and fortnightly visits to Murray Bridge) by a clinical psychologist employed by SOTAP;
· Sexual Offending Information Group (SOIG), open to partners/friends and relatives, which provides education, support and therapy;
· Assessment of people who present to SOTAP for sexual offending behaviour or concerns of offending
· Therapy groups aimed at helping clients to 'understand and change offending attitudes and behaviour', 'relapse prevention' and 'treatment of child Internet pornography use'.
· Court report writing as requested by the Courts
· Appearing as expert witnesses in Court
· Preparing reports as requested by FAYS, parole officers and the Parole Board
· Lectures to TAFEs and universities
· Sexual offending information days provided to related health workers
· Presenting papers to conferences.

3. In addition to the services listed in the response to question II above, from 30 June 2002 SOTAP has:

· begun initiating a service specifically to address the unique needs of young first time offenders;
· begun a service to specifically provide a treatment program tailored for low risk offenders and high risk offenders; and
· extended its services to female offenders.

From 30 June 2002, country services provided to Port Augusta have been reduced to fortnightly.

4. SOTAP provided services to 192 people. This number includes seven partners and does not include people who accessed the service for information, or education and participants at information days. Of the 192 people provided with services, 60 were new referrals.

At 30 June 2002, approximately 182 people were participating in the program.

This information was not collected on the current SOTAP database in relation to the 192 people that received services. However it is known that of the 60 new referrals, twenty-three were mandated to attend. A breakdown by referrer (courts, Parole Board or other authority) is not available. SOTAP is developing a new database that will collect this information in the future.

5. At 30 June 2002, 6.64 staff worked for SOTAP. A breakdown of staff is as follows:

| | |
|---|---|
| · Admin & Clerical | 1.00 |
| · Admin & Clerical Agency Backfill | 0.05 |
| · Psychologists | 5.40 |
| · Psychology Contractors | 0.19 |

At 6 May 2003, 6.30 staff work for SOTAP. A breakdown of staff is as follows:

| | |
|---|---|
| · Admin & Clerical | 1.0 |
| · Admin & Clerical Agency Backfill | 0.10 |
| · Psychologists | 5.20 |
| · Psychology Contractors | 0.00 |

6. SOTAP has received an in-service education session from Shirley Chartrand, a visiting Canadian expert on indigenous offenders, who is working with the SA Department for Correctional Services.

7. SOTAP intends to pursue further education in the provision of services for indigenous people and to promote itself to Aboriginal services providers/agencies.

SOTAP will further liaise with Aboriginal health service providers.

8. Internal audits have been undertaken but no recent external audits have occurred.

9. Total net expenditure of SOTAP for 1998-99 was $389 964. This included:

| | |
|---|---|
| · Salaries & Wages: | |
| · Administrative & Clerical | 28 061 |
| · Psychology | 253 373 |
| · S&W oncosts (super, w/cover & term) | 22 040 |
| · Total Salaries & Wages | 303 474 |
| · Goods & Services | 88 590 |
| · Gross Expenditure | 392 064 |
| · Revenue | 2 100 |
| · Net Expenditure | 389 964 |

Total net expenditure of SOTAP for 1999-2000 was $448 422. This included:

| | |
|---|---|
| · Salaries & Wages: | |
| · Administrative & Clerical | 35 451 |
| · Psychology | 296 235 |
| · S&W oncosts (super, w/cover & term) | 24 830 |
| · Total Salaries & Wages | 356 516 |
| · Goods & Services | 94 199 |
| · Gross Expenditure | 450 715 |
| · Revenue | 2 293 |
| · Net Expenditure | 448 422 |

Total net expenditure of SOTAP for 2000-01 was $457 080. This included:

| | |
|---|---|
| · Salaries & Wages: | |
| · Administrative & Clerical | 35 559 |
| · Psychology | 284 970 |
| · S&W oncosts (super, w/cover & term) | 40 300 |
| · Total Salaries & Wages | 360 829 |
| · Goods & Services | 97 119 |
| · Gross Expenditure | 457 948 |
| · Revenue | 868 |
| · Net Expenditure | 457 080 |

Total net expenditure of SOTAP for 2001-02 as at 29 April 2002 was $494 945. This includes:

| | |
|---|---|
| · Salaries & Wages: | |
| · Administrative & Clerical | 71 581 |
| · Psychology | 296 829 |
| · S&W oncosts (super, w/cover & term) | 26 573 |
| · Total Salaries & Wages | 394 983 |
| · Goods & Services | 103 596 |
| · Gross Expenditure | 498 579 |
| · Revenue | 3 634 |
| · Net Expenditure | 494 945 |

## ADELAIDE CABARET FESTIVAL ADVISORY COMMITTEE

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

1. (a) Are any members of the Adelaide Cabaret Festival Advisory Committee paid members of another arts board?

(b) If so, which board and how much are they paid?

2. (a) Are the positions on the Adelaide Cabaret Festival Advisory Committee ex officio positions of any other board?

(b) If so, which board and how much are they paid?

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

1. (a & b) To the best of my knowledge, the only member of the Adelaide Cabaret Festival Advisory Committee who is a paid member of another arts board is Ms Nicola Downer. In her capacity as Chair of the SA Country Arts Trust, she receives $7 240 per annum.

Along with other members, she receives no payment for her work on the Cabaret Festival Advisory Committee. This committee provides advice and reports directly to the Adelaide Festival Centre Trust. It is not a statutory authority and has no formal status.

2. (a & b) As far as it has been possible to ascertain, none of the positions on the Adelaide Cabaret Festival Advisory Committee are *ex officio* positions of any other board.

## ELECTORAL COMMISSION

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

1. Will the government consider directing the State Electoral Commission to place on line the electoral roll for each of the 47 House of Assembly electorates so that it can be easily accessed by the public?

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

The Electoral Commissioner receives many requests from land agents, debt collectors, private investigators, product sellers and estranged partners for electronic access to the roll for reasons other than electoral purposes.

There is no doubt that the electoral roll is by far the single best database of names and addresses and has great commercial application, particularly in electronic form, as the data can then be manipulated with other data sources.

The State Electoral Office receives many calls from electors concerned about both their personal privacy and who has access to electoral roll information. A number of people advise that they will actively avoid their obligations and not maintain their enrolment because of these concerns.

The Electoral Commissioner advises that, at the moment, he interprets his responsibility as providing the roll in printed form only to all persons other than prescribed authorities or persons.

### NUCLEAR WASTE STORAGE FACILITY

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

## QUESTION TIME

### GUERIN, Mr B.

**The Hon. R.I. LUCAS (Leader of the Opposition):** I seek leave to make an explanation prior to asking the minister representing the Treasurer a question about the Bruce Guerin contract.

Leave granted.

**The Hon. R.I. LUCAS:** On 13 October 1993, just prior to the election that saw the defeat of the Arnold Labor government, that government entered into a contract with Flinders University to make Mr Bruce Guerin, former CEO of the Department of Premier and Cabinet, available for five years as Director of the Institute of Public Policy and Management. The government met all costs associated with the employment of Mr Guerin. The Government Management Employment Act 1985 conferred upon Mr Guerin an ongoing right to be remunerated at a rate not less than the rate that would have applied if he had continued to occupy the position as permanent head of the Department of Premier and Cabinet. There were a number of other aspects of that deal.

The opposition has been informed by Labor Party members that the Treasurer, Mr Kevin Foley, who at that time (1993) was the chief of staff to then premier Lynn Arnold and the most senior adviser in his office, was involved extensively in the negotiation of this contract. We are indebted to those Labor members for their assistance. My questions are:

1. Can the Treasurer confirm that he was, indeed, the chief of staff to premier Lynn Arnold at the time that the Bruce Guerin contract was negotiated, and can he confirm that he was actively involved in discussions with Mr Bruce Guerin at that time and was involved in discussions with former premier Lynn Arnold in the negotiation of the arrangements that constitute the Guerin contract?

2. Does Treasurer Foley now accept significant responsibility for the outrageous contract that he and former premier Lynn Arnold negotiated with Mr Guerin? Can he outline to the parliament what have been the total payments to Mr Guerin since the commencement of that contract in 1993, and, if that contract were not to be changed, what would be the total payments to Mr Guerin, including also an assessment of what superannuation entitlements Mr Guerin would be entitled to as a result of the contract and any existing entitlement he might also have had?

**The Hon. P. HOLLOWAY (Attorney-General):** I will refer those questions to the Treasurer. I will just make the comment that it was my understanding (and a ministerial statement was made by the Deputy Premier yesterday on this subject) that the problems with Mr Guerin's contract (and I do not disagree with the description of it as an outrageous contract) began back in the 1980s, when changes were made to Mr Guerin's role as the Chief Executive of the premier's office. It was my understanding that that is when these problems began.

However, let me make the point that the Rann government is doing what it can, and I hope that we receive the assistance of members opposite. I hope that the Leader of the Opposition will support the legislation that is now being introduced into parliament in another place as speedily as possible, so that this matter can be resolved. The opposition members will certainly have their opportunity to unravel the matter then.

**The Hon. R.I. LUCAS:** As a supplementary question, is the minister refusing to direct those questions to the Treasurer and bring back a reply?

**The Hon. P. HOLLOWAY:** No. I said right at the start that I would refer the questions to the Treasurer. I was just pointing out that it was my understanding that the original arrangements in relation to Mr Guerin were made (which many of us would regard as outrageous) back in the early 1980s, but I will get that information relating to—

*An honourable member interjecting:*

**The Hon. P. HOLLOWAY:** Well, let me say that, in the previous eight years, the previous government did not do something about it. We will accept responsibility for fixing that up. We do not resile from that at all.

**The Hon. J.F. STEFANI:** As a supplementary question, will the Attorney seek from the Treasurer not only the payments that have been made and are currently being made but also the details of the fringe benefits that have been provided by the taxpayer, including the provision of a motor car or any other form of privileges?

**The Hon. P. HOLLOWAY:** I will see what information is available but, as I say, the honourable member will have the opportunity to debate this bill when it comes before the parliament, hopefully, very soon.

### FINES ENFORCEMENT SCHEME

**The Hon. R.D. LAWSON:** I seek leave to make a brief explanation before asking the Attorney-General questions about the Fines Enforcement Scheme.

Leave granted.

**The Hon. R.D. LAWSON:** It was today revealed that the unpaid fines and late payment penalties owed to the state government have reached a record $95 million. In fact, the unpaid amount over the last six months has increased by almost $6 million. It was proposed in Victoria earlier this year, in a paper written by Professor Arie Freiberg and senior economist Professor Bruce Chapman, that deductions be made from the wages of fine defaulters and that those deductions be made through the Australian Taxation Office. Under the scheme proposed by Professor Freiberg, wage earners—or those earning a wage below a certain threshold—would have their fines set aside until their wages rose to a level above the threshold.

Offenders earning above that level would have deductions made on their weekly or fortnightly pay until their fines were paid off. Under the Fines Enforcement Scheme, introduced in the year 2000, the legislation provided a new regime for the recovery of fines. It abolished imprisonment for non-payment of fines but gave greater capacity for the pursuit of non-payers and new sanctions against fine defaulters. One of those sanctions was refusing to renew drivers' licences or motor vehicle registrations whilst fines were outstanding. This government has even gone to the extent of seeking to apply the scheme to persons who fail to vote at an election. My questions to the Attorney are:

1. Given the rise in the amount of outstanding fines at a time when the new scheme was supposed to reduce the amount of unpaid fines, has the effectiveness of the new Fines Enforcement Scheme been evaluated and, if so, who conducted that evaluation and what has been the result of that evaluation?

2. Has the government examined the proposal made by Professor Freiberg (which, I should have mentioned, was in March this year), and will the government introduce a system based upon the garnisheeing of wages?

3. Is the government prepared to discuss with the commonwealth government the possible use of the Centrelink payment system as a way of recovering outstanding fines?

**The Hon. P. HOLLOWAY (Attorney-General):** I do not have a comprehensive background in respect of the development of this scheme, although I do recall the legislation that was moved back in 2000 by the Hon. Trevor Griffin. I think the opposition and most members of parliament supported that legislation at the time as being a very progressive move to deal with this problem. From the limited information with which I have been provided, I believe that the system is generally working well. The fact that there has been a rise in the outstanding amount should be seen in some perspective. Obviously, as fines rise with CPI and the number of fines issued, if they increase due to population growth and for no other reason, or perhaps rise due to greater enforcement, then obviously the amount of unpaid fines might also commensurately rise.

From the information that it provided to me, I believe that the unit responsible for these fines collects about $3 million a month, but about $3 million is also added in outstanding fines as they come in. I am also given to believe that one of the reasons why there may have been a big increase in fines is that, following the last election, the Electoral Commissioner processed a number of those and they were added to the tally earlier this year. That might have been responsible for a one-off increase at that time. As with all statistics, one needs to examine them carefully to see what is really happening below the surface, and I have asked the Attorney-General's office to give me some more information.

I have not seen much more than what was in the paper this morning. The honourable member asked about Professor Freiberg. I do know that my predecessor (the Hon. Michael Atkinson) took a number of initiatives in relation to that matter, although I am not sure whether he looked particularly at the suggestion by Professor Freiberg. I hope that in the not too distant future my colleague will be able to resume his responsibilities in this area and can follow that up.

In relation to garnisheeing wages, there have been some practical problems, problems related to getting the various statistics and so on. After all, part of the problem with these recalcitrants who refuse to pay fines is that they are very hard to track down, so it is not particularly easy to get tax file numbers, bank accounts and other information about their employers that might be necessary to track them down. Obviously, that is an area that does need to be investigated. In relation to the last matter, the honourable member talked about discussions with the commonwealth. It is my understanding that there certainly is an agreement with the commonwealth whereby, if clients voluntarily agree, they can have deductions from their Centrelink payments to pay off their outstanding fines over time.

Obviously, this government encourages people, as did the previous government, to contact the fines unit within the Attorney-General's Department as early as possible if they do have problems paying a fine. There are of course two sorts of people who do not pay fines: there are those who, through their economic circumstances, have difficulty paying; and there are others who simply do not want to pay and will take all sorts of evasive action to avoid paying. In relation to the former, we encourage people to contact the relevant unit and discuss the necessary arrangements. My understanding is that there are voluntary agreements with Centrelink in relation to those matters.

Of course, I well recall some years ago suggestions that there should be compulsory schemes. It was my understanding at the time that the former federal government was extremely reluctant, for privacy and other reasons, to agree to a compulsory system. That raises a number of issues that one would need to carefully consider before one went down that track. As far as voluntary agreements are concerned, we encourage people to get in touch and we have arrangements in place with the commonwealth for that.

**The Hon. J.F. STEFANI:** By way of a supplementary question: will the Attorney advise the council whether the government has explored the possibility of any reciprocal arrangements with interstate governments in relation to the collection of fines? Secondly, will the Attorney consider the possibility of enforcing, with the cooperation of the departments of foreign affairs and immigration, the collection at the point of departure of the fines of defaulters leaving the country?

**The Hon. P. HOLLOWAY:** That question occurred to me this morning when I first heard about this matter. According to the statistics in the paper this morning, $600 000 of the $95 million was due to overseas people. Given the lag between the time people might incur a fine and their leaving the country, I am not certain whether it is possible to put in that pre-emptive action, but I will ask the department to consider whether there can be better arrangements in relation to people going overseas.

As far as interstate fines are concerned, legislation is currently under consideration as to how one might be able to take action against people living interstate who do not pay fines here. It is my understanding that the issue there is simply providing the state with the capacity to pursue those fines through various avenues interstate rather than necessarily seeking arrangements with other states. As for the reciprocity issue with other states, I will seek information and respond to the honourable member.

## GOVERNMENT MAPPING SERVICE

**The Hon. CAROLINE SCHAEFER:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the

Minister for Environment and Conservation, a question on government mapping services.

Leave granted.

**The Hon. CAROLINE SCHAEFER:** On 29 April I asked Minister Holloway a question with regard to the axing of government mapping services. I have yet to receive a reply to that question. However, during estimates the Hon. Iain Evans asked a question of Minister Hill on my behalf about what savings will be made by the rationalisation of these services and the outsourcing of government mapping. The minister's reply indicated that the government expects to save $800 000 in relation to aerial photography. He said that technology had moved on, that satellite imagery had taken over aerial photography and that any upgrading of camera equipment would be excessively expensive.

However, I have received advice that the satellite imagery to which the minister referred is in fact 17 times more expensive than the equivalent in aerial photography and it has already proven too costly to purchase the monthly photography required for the state of the Murray mouth. I have been further informed that the upgrading of databases to take satellite imagery as opposed to aerial photography would cost in the vicinity of $5 million. My questions are:

1. Is the minister now aware of the cost implications of abandoning the government mapping program and does he now concede that there will be few savings and certainly not the $800 000 he indicated? Therefore, does he still stand by his decision to outsource and to utilise satellite imagery?

2. How is monitoring of the state of the Murray mouth currently being carried out?

3. Is the government, in fact, paying for aircraft from Queensland to carry out such mapping services for South Australia; if so, how many such contracts have been let and at what cost?

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

## EGG INDUSTRY

**The Hon. CARMEL ZOLLO:** I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding the egg industry.

Leave granted.

**The Hon. CARMEL ZOLLO:** In a press release from the South Australian Farmers Federation dated Friday 20 June 2003 the Chairman of the South Australian Farmers Federation poultry section, Mr Warren Starick, expressed his view that there is a current national shortage of eggs, and that this is likely to continue until at least September. Can the minister please explain the challenges that are currently facing the egg industry in South Australia and what the government is doing to assist producers?

**The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries):** The egg industry certainly is facing some important challenges at the moment, and particularly in relation to the implications for South Australian producers from the ARMCANZ decision on cage sizes. The ARMCANZ, of course, has now become the primary industries ministers' council. With this in mind the Department of Primary Industries and Resources met with the South Australian Farmers Federation in February 2002 in order that the consequences of that decision by federal and state ministers back in 2001 could be discussed and examined. Resulting from this, PIRSA, SAFF, the Centre for Innovation, Business and Manufacturing and Southern Egg commissioned Dr David McKinna to undertake a detailed analysis of the egg industry.

The outcome of this analysis was a report by Dr McKinna called 'Cracking the Egg Industry Challenge', which I launched recently in Tanunda. The report is a very detailed analysis of the state's egg industry, particularly with regard to the pending new layer hen cage density regulations scheduled for 2008, and the concentration of market power by the national supermarkets. The report puts our local industry into perspective in relation to the national scene and outlines the implications for egg producers. It indicates that the South Australian egg industry is at a crossroads and that it has been working through a decade of major structural change since deregulation in 1992, facing significant adjustment if it is to remain competitive with the other states.

We have 774 000 commercial layer hens in South Australia and the report estimates that 17 of the 49 local egg producers produce 80 per cent of the state's eggs. Using PIRSA's food score card, the gross food value to the state in 2001-02 of the egg industry was $58 700 000. On top of this, South Australia imported a further $8 000 000 worth of eggs in gross food value. Obviously, the smaller producers in the egg industry are at risk of being impacted by some of the large efficient interstate producers as they have the capacity to dominate the production sector. In combination with the significant influence of the supermarkets there is the potential for smaller producers to be forced out.

To be competitive on the national scene, the local industry is facing major adjustment. However, our state does have a competitive production advantage on its side with its dry climate and normally reliable grain supplies. Even last year's drought shows that we have the capacity to produce significant grain supplies and our prices did not escalate to the extent that they did in the eastern states. The government is keen to see the industry remain in the state and I personally look forward to working with producers as they come to grips with the challenges detailed in the report.

The report suggests that there may be a role for government in assisting an industry working group with the development of a business plan. In terms of this, the government would be interested to work with the group as suggested in the report to formulate a business plan for a consolidated egg producing and marketing entity. I conclude by saying that Dr McKinna has done a very thorough and detailed analysis and it is very important that with such a detailed audit of the industry's position available the development of the business plan proceed quickly.

## RADIUM HILL

**The Hon. SANDRA KANCK:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question concerning the past, present and future use of the disused uranium mine at Radium Hill as a nuclear waste dump.

Leave granted.

**The Hon. SANDRA KANCK:** In 1986, the disused Radium Hill mine was proclaimed in the *Government Gazette* as a site for the storage of radioactive waste under the Radiation Protection and Control Act. My questions are:

1. Is that proclamation still in force? If not, when was it changed?

2. If waste was deposited there, what is the total in cubic metres of high, medium and low level radioactive waste?

3. When was waste first stored and last stored at Radium Hill?

4. Is the waste stored securely?

5. Is the waste monitored? If so, how?

6. If the site is still in use as a waste site, does the current government intend to use Radium Hill as a repository for the existing South Australian generated radioactive waste?

**The Hon. P. HOLLOWAY (Minister for Aboriginal Affairs and Reconciliation):** The Radium Hill radioactive waste repository is under the control of the Minister for Mineral Resources Development. Mining at Radium Hill ceased in 1962 on the completion of a seven-year supply contract to provide uranium to the USA. In 1981, Roger Goldsworthy, then acting premier, announced further rehabilitation works aimed at establishing an earth cover over the tailings storage facility and the placement of mine aggregate into the old mine workings.

A low level radioactive waste repository was gazetted on 2 April 1981 and has received 14 depositions consisting mainly of uranium mineral residues, the last received in 1998. Mineral residues consist typically of drill core and drill cuttings recovered in the exploration for mineral deposits, metallurgical tailings for laboratory assessment of various mineral deposits and surface soils contaminated by the storage of residues, and miscellaneous items, such as plastic pipes, pool liners, etc., contaminated in the processing and handling of uranium minerals. I can at least provide that information to the honourable member at this stage, that 1998 was the last time, as I understand it—

**The Hon. Sandra Kanck:** 1988 or 1998?

**The Hon. P. HOLLOWAY:** It was 1998. I will look at the honourable member's question to see whether there is any other information that can be provided.

**The Hon. R.I. LUCAS:** I take a point of order. The minister quoted from a docket in answering that question. Under standing orders, I seek a ruling from you, Mr President, that the minister must table a copy of that file.

**The PRESIDENT:** That is the general convention, I understand. Does the minister wish to volunteer to table it? If he does not volunteer, any further action will have to be taken by motion.

**The Hon. P. HOLLOWAY:** I believe that I can table this report. I should check it to ensure that there is nothing in here that would—

**The Hon. Caroline Schaefer:** It's too bad; standing orders say you have to.

**The PRESIDENT:** Order! Standing order 452 reads thus:

> A document quoted from in debate, if not of a confidential nature or such as should more properly be obtained by address, may be called for at any time during the debate and on motion thereupon without notice may be ordered to be laid upon the table.

The minister has the discretion to take action of his own volition or there are other means by which the council may wish to proceed. It is up to the minister.

**The Hon. P. HOLLOWAY:** I will table it.

## INDEPENDENT GAMBLING AUTHORITY

**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 in relation to the Independent Gambling Authority, its functions and powers.

Leave granted.

**The Hon. NICK XENOPHON:** Section 11 of the Independent Gambling Authority Act refers to the functions and powers of the authority to develop and promote strategies for reducing the incidence of problem gambling and for preventing or minimising the harm caused by gambling. Section 11(2a)(b) of the act makes reference to the authority performing its functions and exercising its powers under the act, having regard to 'the maintenance of a sustainable and responsible gambling industry in this state'. That has been the subject of some debate between the industry and those concerned with the impact of gambling as to the extent, if any, to which it impacts on the authority's functions.

At public hearings of the Independent Gambling Authority last month, a submission by the heads of the Christian Churches Gambling Task Force referred to a legal opinion it obtained, which stated, in part:

> The function of a body is the activity by which the body fulfils its purpose. In administrative law, a statutory body is advised to act in accordance with its purposes. It cannot act in pursuance of anything other than its purposes. Therefore, the Authority must act to reduce the incidence (frequency) of 'problem gambling'. It must also act to prevent or minimise the harm caused by any form of gambling whether it is defined as 'problem gambling' or not.

My questions are:

1. Has the authority sought legal advice? If not, will it seek such legal advice as to the extent to which the Crown might be liable if the authority makes recommendations to reduce the harm caused by gambling and those measures are not implemented?

2. Has the authority sought legal advice as to the extent to which it can exercise its functions and obligations to act, particularly in the context of section 11 of the act? If not, does it propose to seek such advice?

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

## COOBER PEDY, POLICE

**The Hon. T.J. STEPHENS:** I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question regarding policing services in Coober Pedy.

Leave granted.

**The Hon. T.J. STEPHENS:** I recently had a number of constituent meetings in the town of Coober Pedy, and many members of the local community raised a particular concern. Whilst there is a policing service in Coober Pedy, the concern is that there is no 24-hour police station and the after-hours service is directed via Port Augusta. Clearly, if there is an urgent situation, there cannot be an immediate response. My questions are:

1. Can the minister provide the council with the cost of having a 24-hour police service in Coober Pedy?

2. Given that the budget included funding for two regional ministerial offices and spent taxpayers' money spruiking of how this government is tough on law and order, why has it failed to provide the people of Coober Pedy with a 24-hour police station?

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

## BOATING FACILITIES ADVISORY COUNCIL

**The Hon. J.M.A. LENSINK:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about the South Australian Boating Facilities Advisory Council.

Leave granted.

**The Hon. J.M.A. LENSINK:** We are all familiar with the number of reviews this government is undertaking and that one area which is under examination is the number of boards and committees. It is my understanding that the South Australian Boating Facilities Advisory Council made a number of recommendations to the minister earlier this year regarding the allocation of grants but that the industry is still awaiting the minister's response to those recommendations. In the meantime, the industry is continuing to pay government fees by way of boat registrations. My questions are:

1. Has the minister received the recommendations from the Boating Facilities Advisory Council?

2. When will decisions be made regarding the boating facility grants?

3. Is the government aware of any councils that have had to delay jetty and other works because they are still waiting for the minister's decision?

4. Will the Boating Facilities Advisory Council continue to exist or is it being abolished as part of the government's review of boards and committees?

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

## GAMMON RANGES NATIONAL PARK

**The Hon. J. GAZZOLA:** I seek leave to make a brief statement before asking the Minister for Aboriginal Affairs and Reconciliation a question about reconciliation in South Australia.

Leave granted.

**The Hon. J. GAZZOLA:** I understand that, as part of this government's commitment to reconciliation, the Gammon Ranges National Park is being renamed to reflect the close association indigenous people have with the area and this park. Can the minister give details of this renaming and of any future plan that the government has in this area?

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** All over the state, including the Gammon Ranges National Park, joint names are being added to the list of European based names—historical names—of many of our landmarks, and the Gammon Ranges are no different. Last week, my colleague the Minister for Environment and Conservation announced that the state government had renamed the Gammon Ranges National Park as part of our policy aimed at increasing acknowledgment of Aboriginal heritage in South Australia.

The Vulkathunha-Gammon Ranges National Park (as it will now be known) is the first in a series of parks to be renamed because of their strong connections to Aboriginal people. Co-naming also means that the park is still identifiable by people using the European names; if they are used to using them they will continue to use them. A number of other parks have an Aboriginal name—for example, the Witjira National Park—or are co-named, as with the Poonthie Ruwi-Riverdale Conservation Park, and I see these names—

**The Hon. A.J. Redford:** Household names.

**The Hon. T.G. ROBERTS:** I hope they do become household names, Mr Redford. That is the intention of the government, to show partnership in reconciliation. But it will be difficult for people to get the pronunciations right, just as we in this council wrestle with them. However, it will make people think about the rich culture that we live alongside of. I see these names as a meaningful way of recognising and respecting Aboriginal cultural association with the land—and it is only one way in which we recognise that co-association.

This policy also promotes cooperative park management arrangements with Aboriginal interests and, under these arrangements, traditional knowledge and contemporary park management skills can be brought together to form a partnership to improve park management and contribute to reconciliation. Hopefully, in the long term, we can have joint management and training programs for Aboriginal people, particularly in regional (and, in some cases, metropolitan) areas, to provide employment opportunities for the broader community as well as linking with the Aboriginal knowledge that we now have to field, because many of the people from whom we would be obtaining knowledge are dying out.

I would also like to pay tribute to the many local councils who have looked, and are looking, at such dual naming and, certainly, some of the work that is being done in relation to reconciliation by people who are drawing together Aboriginal culture and environment and land. We have quite close to Adelaide the Cleland Conservation Park, where a lot of good work has been done. I think that, in years to come, we will have tourists who will be attracted to national parks not only by their European name and the history that goes with it, but they will also be able to recognise and be informed of the rich culture that preceded European settlement in relation to a lot of these geographical areas that we have come to know and love so well. As South Australians we will, hopefully, share that with interstate and overseas tourists.

**The Hon. J.S.L. DAWKINS:** I have a supplementary question. Will the minister indicate whether friends of parks groups were consulted in relation to the change of name for these parks, and will those friends of parks groups be used to assist in the process of the general community's getting used to the new names?

**The Hon. T.G. ROBERTS:** The information inherent in that question, I think, lies with the minister for the environment and those people who are associated with it. I will refer that question to—

**The Hon. A.J. Redford:** You do assist?

**The Hon. T.G. ROBERTS:** Yes, I do assist. I have done my bit in relation to assisting the Minister for Environment and Conservation in relation to the dual naming of the national parks. But regarding the way in which the information was gathered, I will have to refer that question to my colleague in another place and bring back a reply.

## FAMILY AND YOUTH SERVICES

**The Hon. KATE REYNOLDS:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice, questions about under-staffing of Family and Youth Services.

Leave granted.

**The Hon. KATE REYNOLDS:** The chronic staff shortages within the Family and Youth Services department

has been well-documented in recent years and raised by me in this chamber several times. Earlier this year FAYS staff implemented work bans to highlight the seriousness of the situation. In recent days the situation appears to have worsened considerably. Initially, the government offered 25 interim staff positions to alleviate the chronic under-staffing problem, but already we have learnt that four staff positions, which had been purchased out of the regional office's own budget, have been lost from the Murray Bridge FAYS office whilst many short-term contracts across the state were not renewed after 30 June.

It appears that those 25 interim staff positions initially offered would not even restore staff numbers to the level of June this year. The PSA is seeking an interim allocation of 60 staff members for three months while FAYS workers complete a workload review as requested by the government. I note that this review has been branded as completely unnecessary by the PSA because every office can already identify where more staff are needed immediately. The minister has said that she will ask cabinet to approve funding to enable additional staff to be employed. However, it is not clear what, if any, offer is on the table or, indeed, whether the initial offer of 25 positions still applies. My questions to the minister are:

1. When will he request a meeting with the PSA to resolve this issue?

2. Is any offer currently on the table in relation to additional staff for FAYS officers?

3. What did cabinet approve yesterday, and when will that information be released to the PSA, to FAYS staff, to the parliament and to the public for scrutiny?

4. Is the government committed to developing both short-term and long-term solutions to the problem of under-staffing in FAYS offices which will enable FAYS to meet properly its mandated responsibilities?

5. Will the minister acknowledge that a doubling in the number of children under guardianship orders at the Murray Bridge office from 67 to 124 in the past 12 months means that the office should have the staffing entitlement of an A level office, not B?

6. For the purposes of staffing, how many other regional offices are classified at a level below their actual client workload, and will the minister provide details about which regional offices are forced to use their local flexible funds to employ social workers on short-term contracts because funding from the central office is not adequate to meet their basic staffing needs?

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

## OCCUPATIONAL HEALTH AND SAFETY

**The Hon. A.J. REDFORD:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Transport, a question about occupational health and safety.

Leave granted.

**The Hon. A.J. REDFORD:** Mr President, as you and other members will be aware, over the past few months the opposition has expressed significant concern at some of the processes that the Minister for Industrial Relations has used in relation to his portfolio and, in particular, appointments to WorkCover and other positions. Members will remember that I have made mention of the close personal friendship between the minister and the Executive Director of Workplace Services, Michelle Patterson, whom the minister recently appointed and, in particular, her role in the minister's decisions and processes.

I have been approached by several Labor Party sources and public servants who have indicated to me that they are fed up with the way in which the department is being run. Interestingly, I have been given information about the processes being employed in Workplace Services by Miss Patterson with the full knowledge of this minister. It has been revealed to me, amongst many things (and I know that the industrial advocates in this place—most of whom sit on the opposite benches—will follow this very closely), that earlier this year occupational health and safety inspector classifications were changed from OPS5 to ASO5.

As members will know, in the Public Service a work value case is normally undertaken and recommends whether a classification should be changed. I have been told by my sources that this was not undertaken in this case. The result of the increase means that each occupational health and safety inspector is given an increase of approximately $5 000 per year. As a result of this increase, the impact on the budget could well run into hundreds of thousands of dollars each year. In light of the above, my questions are:

1. What processes were undertaken to make this change and who approved the process?

2. Did the minister approve the process and, if so, what was the justification for such a change?

3. Does this increase also apply for the industrial relations inspectors who are classified at OPS4?

4. Given the minister's rhetoric about increased occupational health and safety enforcement activity, does he accept that it would have made more sense to use the many hundreds of thousands of dollars each year to employ additional inspectors?

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

**The Hon. A.J. REDFORD:** As a supplementary question: could the minister also advise how he proposes to increase the number of prosecutions to 80 this financial year from a base of 12?

**The Hon. T.G. ROBERTS:** I will also pass that important question to the Minister for Industrial Relations in another place and bring back a reply.

## NUCLEAR WASTE

**The Hon. J.F. STEFANI:** I seek leave to make a brief explanation before asking the minister representing the Minister for Environment and Conservation a question about South Australia's nuclear waste.

Leave granted.

**The Hon. J.F. STEFANI:** During the last 12 months the Minister for Environment and Conservation identified some 26 different sites where radioactive waste is being held around South Australia. In particular, in the Adelaide metropolitan area there are at least 10 different locations where nuclear radioactive waste is being stored. Will the minister advise whether any of the sites that have been identified by the Rann Labor government as storing radioactive waste contain any of the following residual materials:

cobalt-60; radium-226; americium-241; strontium-90, caesium-137; tritium and carbon-14; plutonium-239; caesium-134; or europium-152?

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

## OPEN SOURCE SOFTWARE

**The Hon. IAN GILFILLAN:** I seek leave to ask the minister representing the Minister for Urban Development and Planning a question relating to open source software.

Leave granted.

**The Hon. IAN GILFILLAN:** In this morning's *Australian*, in the IT section, there is a very interesting article entitled 'Rann's man slams open source.' Rann's man in this case is the Minister for Administrative Services, the Hon. Jay Weatherill. However, although he got stuck into open source, on 28 April in *Hansard* he is quoted as saying:

> Open source software is a relatively recent phenomenon which is gaining more and more attention. For the benefit of the member for Unley, I will explain that the difference, of course, is that ordinary proprietary software comes with a licensing regime, and it means that, once you purchase it, it is impossible to sell or pass on to someone else without having to pay a further licence fee. Open source software is, in fact, accessible more generally. One of the obvious benefits is that, because Microsoft has a particular place in the market (as we are well aware), it can lead to other organisations—indeed, both within an organisation or other proprietary organisations—essentially establishing a beachhead in the application software market. So, it can provide a basis for the increase in competition.

Further, in July, in the *Australian*, Mr Weatherill was quoted as saying that the government was looking enthusiastically at the opportunities presented by the open source movement and was keen to introduce it. However, this morning, in a letter signed on behalf of the Rann government by administrative services minister Jay Weatherill, he was scathing about the quality of open source software and stated:

> Our research to date shows that generally open source software is not yet seen by the marketplace to be suitable for fundamental business functions.

He goes on to slam it in various ways. The other ally in slamming open source software is an organisation called 'The Initiative for Software Choice'. I believe honourable members have all received a letter from this eminent organisation, which happens to be a lobbyist organisation that counts both Microsoft and Intel as among its financial supporters.

It is a dramatic change of position on behalf of the Rann government, assuming that minister Weatherill is speaking on behalf of the government, and it does beg the question of why they should have changed their mind so dramatically on this. The article also says, which is good news:

> The ISC [the lobby group representing Microsoft and probably other significant proprietary members] is fighting an uphill battle to keep software preference policies from being passed into law. Mr Kramer, speaking on this matter, said that some 70 such policies were being discussed around the world and even three US states—Oregon, Texas and Delaware—were considering bills.

Members realise that I have a bill which would in fact promote open source software and it is very disappointing to read the report in the paper this morning. I ask the minister:

1. In the time that has passed since 1 July and 14 July what has changed the minister's, and presumably the government's, mind about the value of open source software?

2. Is he aware that companies are running software developed right here in South Australia, fully competent to contract for government orders? One particular company is named Groundhog.

3. Has there been any pressure or inducement offered to the government or the minister in respect of government tendering and offering contracts for their software contracts?

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** Certainly the member asks a question that is a real live issue and one that is uppermost in the minds of some government ministers at the moment. The honourable member modestly quoted from the article; I understand that he got a mention in the aforementioned article from which he quoted. The honourable member is certainly operational at a contemporary level within this debate. More information will be made available tomorrow. I think the honourable member's bill is being discussed tomorrow and fresh information will be made available in the debate that will continue the movement of the honourable member's bill. But I will refer the question to the minister in another place and bring back a reply.

## GP HOMELINK

**The Hon. J.S.L. DAWKINS:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about GP Homelink.

Leave granted.

**The Hon. J.S.L. DAWKINS:** In noting the government document package First Steps Forward—South Australian Health Reform, I was interested to learn that health regions would be encouraged to expand GP Homelink. The general practitioner home link program aims to avoid older people unnecessarily being admitted to hospital. The unit works closely with general practitioners to provide short-term intervention, coordinate care needs at home and provide services at no cost to the patient or the general practitioner. I particularly became aware of GP Homelink North, which services the areas covered by the Tea Tree Gully, Salisbury, Playford and Gawler councils at the opening of the Continuum of Care Project at the Modbury Hospital in 1999.

The scheme, which is funded by the Department of Human Services in conjunction with the Aged Care and Housing Group, provides a service to clients from 65 years of age and for Aboriginal patients over 45 years of age. The objectives of the service are to increase the support options available to older persons, improve continuity of care, avoid admissions to hospitals, offer a highly responsive and flexible service focused on the individual, coordinate a flexible plan of assistance, link people with community services, reduce the risk of future admissions to hospital, and enhance the wellbeing of individuals and their families.

To illustrate the ways the program can operate, I relate a story that the coordinator of GP Homelink North, Ms Jan Cecchi, told me about a husband who had a psychiatric problem and whose wife needed to go to hospital. They had a 13-year old dog and neither wanted to leave the animal. By arranging for Animal Welfare to look after the dog, the husband was quite happy to go to Hillcrest for a while to enable his wife to receive the required hospital care. My questions are:

1. Will the minister indicate what regions will be encouraged to develop and expand GP Homelink?

2. Will the minister indicate what level of funding will be provided to enable the expansion of GP Homelink?

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

## ROADS, OUTBACK

**The Hon. D.W. RIDGWAY:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about Outback road gangs.

Leave granted.

**The Hon. D.W. RIDGWAY:** I refer to this morning's *Advertiser* with the unfortunate headline regarding the tragedy that befell a Swiss couple and their young child on the track near Oodnadatta on the weekend. I also refer to some media monitoring today, as follows:

Fatal car crash near Oodnadatta highlights the problems of Outback road maintenance.

A major union says the weekend death of three Swiss tourists in a car crash near Oodnadatta has highlighted the problems of Outback road maintenance because of cuts in the transport budget. The Australian Workers Union says about $2.25m was cut from Outback road works funding last year, with the number of maintenance gangs being cut from four to two.

AWU Organiser Rod Skews says he's always been worried that it could make remote roads more dangerous:

'We've pointed out back in August [2002], we made it quite specific to the Transport SA to the fact that the safety was one of the big questions.'

My questions are:

1. When will the government recognise that neglecting the bush is now starting to cost people's lives?

2. If the road gangs are reinstated, how long will it take to catch up with the maintenance backlog on these roads?

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I will refer the detail of that question to the minister in another place and bring back a reply. In doing so, I would like to point out that a lot of roads in the outback are dangerous, regardless of whether or not road crews have worked on them or are working on them. I do not think that the contributing factors for the accident have been a part of any report that has been completed. I understand the police are still investigating the accident.

There are any number of roads in the north which if they are not traversed at the correct speed in the right way become far more dangerous. A small amount of rain on those tracks becomes disastrous, particularly for people who are not used to driving on those roads. I think the member should wait for the outcome of the report from the police before making assessments such as he has. It is a tragic event. We all know that roads are difficult and dangerous in the outback. I do not think any government currently or in the future will have the funds to bring them up to the standard that we require, with full bitumen. There will be progress made over time to try to keep up with the maintenance work that goes into those roads. With those few words, I will take those questions on notice and bring back a reply.

## EXTRACTIVE AREAS REHABILITATION FUND

**The Hon. CAROLINE SCHAEFER:** I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries and Mineral Resources Development a question in relation to the Extractive Areas Rehabilitation Fund.

Leave granted.

**The Hon. CAROLINE SCHAEFER:** On 27 March, the Hon. Sandra Kanck asked a question with regard to the Extractive Areas Rehabilitation Fund, and the minister said that an inquiry was taking place into additional funding for rehabilitation, particularly of quarries. I have since been contacted by a number of constituents with quarrying interests who have said that there has been a change of policy for the fund to remediate quarries, so, instead of paying into the fund a levy of some 20¢ per tonne, those who are engaged in quarrying will be expected to provide a bond.

That creates some difficulty for smaller operators and it impinges on their ability to borrow money for such things as replacement of plant. As I say, they are expected to provide a bond by way of a large cash deposit or a bank guarantee. That impinges on their ability to operate their business. I understand that there is a degree of retrospectivity in the increase in funding required for rehabilitation that has not taken place over a number of years. It seems quite unfair that those who are currently quarrying should pay for unremediated sites from some years ago. My questions are:

1. Is the minister aware of this change of policy?
2. When was it made?
3. How much will it cost those involved in quarrying?
4. When will the public announcement be made of this change of policy?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development):** As the honourable member said, I was asked a question on this subject by the Hon. Sandra Kanck earlier this year and I indicated at the time that a discussion paper had been released. That discussion paper canvassed two options: one was to retain the levy system, but perhaps at a higher rate; the other option considered a bond-type system. That discussion paper has been circulated to the industry and other stakeholders, and I am not quite sure whether the date for submissions has yet closed. It may be the end of this month or shortly, and it may have closed already. I will find out. A lengthy period was made available for submissions to be received and, when those submissions are received, the government will make a decision.

Essentially, two options were offered, and I am well aware of the views of most in the industry in relation to their preferred option. However, we will wait until all the options are assessed before the government makes a decision. I also indicate that new applications under the fund had been frozen, subject to consideration of the matter, as was the case under the former government some five or 10 years ago when a previous review of the scheme was undertaken. So, it is not the case that any decision has been made in relation to either of those two options.

## REPLIES TO QUESTIONS

### MINERAL EXPLORATION

In reply to **Hon. J.F. STEFANI** (12 May).

**The Hon. P. HOLLOWAY:**

1. Exploration licence nos 2901 to 3070 inclusive (total of 169) were granted during the period 6 march 2002 to 26 March 2003. They are located throughout the state and their exact locations are detailed on PIRSA's website (SARIG system) and PIRSA published plans (EL map) and lists (earth resources information sheet M2) which are readily available from PIRSA.

A current map and list will be forwarded to the honourable member in due course.

Since the grant of these 169 ELs, 13 have been surrendered or allowed to expire by the licensees (Els 2902, 2906, 2916, 2919, 2923, 2933, 2934, 2935, 2949, 2951, 2960, 2974 and 3025).

2. The earth resources information sheet M2 indicates the current licence terms for the ELs still current as at 20 May and these range between one and three years. Exploration licences can be granted for a maximum period of five years and are normally renewed annually subject to satisfactory work performance.

3. During the period March 2002 to March 2003, EL revenue (e.g. application, advertising, annual licence and renewal fees) totalled $1 087 215.

## SOUTH AUSTRALIAN FILM CORPORATION

In reply to **Hon. D.W. RIDGWAY** (25 March).

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

1. The South Australian Film Corporation's lease on its current premises at Hendon expires in June 2004. It is therefore timely and responsible for the Film Corporation to be investigating whether its current premises are best suited to its changing needs. A sub-committee noted in its report to the board in November 2002 that 68 digital media, advertising, and post production companies and other film-related organisations are currently clustered in North Adelaide, Walkerville, St Peters, Payneham, Stepney, Kent Town, Norwood, Kensington and Marryatville. The Premier therefore recently gave his approval for the Board to begin exploring a number of possible relocation options in the inner north-eastern metropolitan area of Adelaide, as well as other potential locations.

2. The film industry is evolving in exciting ways, particularly in the area of digital media. Ground-breaking, world-class work is being carried out in Adelaide in this field, particularly in the areas of video games and visual effects. For example, Rising Sun Pictures, based in Kensington, specialises in creating visual effects for international and Australian feature films, television, and television commercial production. Ratbag, a games developer, works almost exclusively on games for the international market.

Over the past two years, the SA Film Corporation has been strategically widening its traditional support base (which, over the past 30 years, has seen the production of many award-winning films and documentaries) in order to provide support for the fast-developing area of new media production. Indeed, the previous state government approved the allocation of additional annual funding to the Film Corporation for this very purpose.

South Australia's new media businesses are already starting to reap the benefits of this widening of the Film Corporation's support base through the provision of internships, project development loans, professional development grants and industry participation grants, as well as the recent signing of two major accords – with the ABC and SBS—for the production of digital media projects.

Given the existing close links between the SA Film Corporation and many of these new and traditional media organisations, it is prudent for the Film Corporation to be exploring a possible move to premises in the Kent Town/Norwood area, as one of its options.

3. It should be noted that the SA Film Corporation is considering a potential move at this stage. The board intends to identify, and cost, several potential sites so that it can rate these options against its current facilities at Hendon and make a decision, before the current lease expires, about whether or not to move. As part of this process, the Department for Administrative and Information Services is preparing an advertisement seeking expressions of interest from the private sector to construct or convert premises which might provide suitable infrastructure for the local industry and which could lease space to the SAFC.

4. No site has yet been identified.

5. Since potential sites and costings have not yet been identified, it is premature to be speculating on the relative costs of rental.

6. The Film Corporation's program budgets are quarantined for specific purposes and cannot be used to pay for the lease of premises.

7. It is assumed that, if the Film Corporation does eventually decide to move to another area, the landlord of the Hendon premises will seek other tenants and that these tenants will subsequently make a comparable contribution to the economic activity in the Hendon area. Already the landlord has leased part of the building to the radio station, Life-FM. It would certainly not be the responsibility of the government to find replacement tenants.

8. The request to investigate alternative potential sites in the inner north-eastern metropolitan area, as part of its identification of a range of possible alternative sites, originally came from the Board of the SA Film Corporation, and was based on its strategic aims to remain both a key driver in the SA film industry and a leader in the development of local talent and businesses.

## ADELAIDE UNIVERSITY REGIMENT BAND

In reply to **Hon. SANDRA KANCK** (14 May).

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

On 17 February the Leader of the Opposition and I wrote to the Prime Minister in support of the Adelaide University Regiment's Pipe and Drums. A copy of this letter was forwarded to Senator Robert Hill.

The text of the letter was:

'We write to request that your Government consider allowing the acceptance of the invitation to the Adelaide University Regiment's (AUR) Pipes and Drums to perform at the 2003 Edinburgh Festival.

We have been advised that Headquarters Training Command Army have opposed the trip, partly on the basis of cost, which was estimated to be $160 000. However, we understand that members of the AUR are now willing to finance the trip themselves, with no financial cost to the Army.

We understand that the threat of terrorism and associated pressures are also factors which led HQTC-A to reject the AUR's request, however we ask your Government to consider the public relations benefits given the massive world-wide audience who see the Edinburgh Tattoo—either live or on television.

Thank you for your consideration of this matter.'

On 16 April 2003 I received a reply to the letter from the Hon. Peter Slipper, MP, Acting Parliamentary Secretary to the Prime Minister, which said:

'Dear Premier

Thank you for your letter of 17 February 2003 to the Prime Minister co-written by the Leader of the Opposition, the Hon Rob Kerin, seeking support for the Adelaide University Regiment's (AUR) Pipes and Drums to perform at the 2003 Edinburgh Festival. The Prime Minister has asked me to reply on his behalf. I regret the delay in responding.

The invitation for the AUR Pipes and Drums to attend this year's Edinburgh Festival is a tribute to the professionalism and dedication of its members. I am advised that, in addition to the AUR Pipes and Drums, two other ADF Bands have sought support from the Department of Defence to attend the Edinburgh Festival.

I recognise that the band and it members must be deeply disappointed by Defence's advice that it is unable to fund their visit to Edinburgh, and note your advice that AUR members are proposing to finance the trip themselves at no cost to Army. Unlike private or community bands, however, it is not possible for the AUR to travel overseas in an unofficial capacity. Defence advises that the ADF would continue to bear duty of care and management responsibilities (eg medical and compensation cover) for the AUR whilst it was overseas. Furthermore, the ADF cannot absolve itself of these responsibilities chiefly because the performance and conduct of the AUR (or any other ADF band) at the Edinburgh Festival will inevitably reflect on the reputation of the ADF, regardless of the capacity in which the band is performing.

I trust you will therefore understand why Defence is unable to agree to support the visit of the AUR Pipes and Drums to the Edinburgh Festival. As Defence periodically supports the attendance by ADF Bands to the Edinburgh Festival, there may be an opportunity for the AUR to attend in the future.

Thank you for bringing this matter to the Prime Minister's attention. I have copied this letter to Senator the Hon Robert Hill, Minister for Defence, and the Hon Rob Kerin, for their information.'

On Friday 16 May I was interviewed on the ABC's Stateline where I said:

'The profile that it gives for Australia, the profile that it gives to Australia's Defence Forces, the profile it gives to our excellence in the arts and in music. And also the profile for Adelaide. You can't buy that kind of profile. There's a multi million audience around the world for this particular festival. So I just think there needs to be a rethink in Canberra and lets

actually put the interest of our State and nation ahead of the bureaucracies.'

### LOCAL SCHOOL MANAGEMENT

In reply to **Hon. KATE REYNOLDS** (29 May).

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

On 13 June, the government released its response to the Cox Review. Changes to the state education system will have a focus on improved delivery of services to students. About 60 specialist staff positions will be relocated from State Office to district offices to provide more direct services to schools and pre-schools.

A target of a 10 percent increase in service delivery to students with learning difficulties has been set as part of the government's aim for better coordination and more effective services.

The reforms are a key part of the state government's response to the Cox Report into local management of public schools across the state.

All schools will come under the unified system and operate under the same funding model, unlike the former government's inequitable two-tiered system, partnerships 21.

Following consultation with education stakeholders, including school governing councils, and their representative bodies, principals' associations and unions, transition arrangements will begin in readiness for the 2004 school year. The local management implementation group will consult with parents, unions and other education stakeholders about the transition to the new arrangements.

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### APPROPRIATION BILL 2003

Adjourned debate on second reading.

(Continued from 14 July. Page 2839.)

**The Hon. IAN GILFILLAN:** The Democrats support the second reading of the bill. However, the second Foley budget is a disappointing document. The government has had a year to get a handle on the state, and we do not believe that it has. This Labor government is haunted by ghosts of the past. The concern that the government will be tarred with the brush of financial mismanagement is a Damoclean sword hanging over every decision the Treasurer makes. The result is that this government is different from any Labor government that has gone before. It is largely different from the Bannon government and a world away from the daring and tenacity of the Dunstan government.

This budget is a soft budget, a safe bet budget. It provides token amounts to key projects; it calls for scrimping and saving at every level; it does not allow departments to plan for the long-term interests of the state; and it adds the new poorly targeted Rann tax—the water tax (for which they have already apologised and have offered back). It produces a small deficit, which could have been deleted with a stoke of a pen, revealing it to be a cheap PR exercise to smooth the way for the introduction of the water tax. We have the next few budgets being balanced with the last chunks of money from the old State Bank. There is no vision and no credible plan for SA. It is, in fact, a far cry from what this state needs and deserves from its government. In looking at the budget, we must understand the state of the South Australian economy.

The recent State of the State report, presented by the Economic Development Board, is a broad-brush statement. When one compares the Economic Development Board's framework for economic development in South Australia with the 1992 Little report, commissioned by the previous Labor government, there is a stark contrast. While the Little report contains a detailed analysis of the South Australian economy, all the EDB's contribution sets out is a more general agenda to free up constrictions on business. This result is not surprising and has as its cause two key reasons. First, the detailed data required to form an accurate picture of the state's economy, much of which was once done by the Australian Bureau of Statistics, is no longer collected. I would suggest that many honourable members are not aware that no longer do we have the background of accurate data upon which to make judgments as to the actual state of the economy of South Australia, because the ABS does not do the job it once did. The second reason is that it is unreasonable to expect a small group of people, who have considerable other commitments, to undertake the detailed analysis required to provide a vision for the future development of the state.

I attended the Economic Development Summit, and I commend the people from the community who gave of their time to attend this event. However, I do not congratulate the government for taking up, I believe unnecessarily, a lot of these people's time in this way. A great deal more analysis needed to go into the groundwork from that summit to ensure that the results were based on a sound foundation. As it is, the final report is based on the neo-liberal economic doctrine which calls for the restriction of the role of government and the increase in opportunities for business. I fear that this is another case of the government investing just enough time and effort to get media attention but not enough to have any real impact on the welfare of the state.

I now move to the issue of state debt, which has dominated discussion on the economy for the past eight years. The State Bank collapse changed the debt debate in South Australia. It started what was probably the greatest use of the public debt issue as a political tool to win elections and to maintain power in government. The debt debate in South Australia became a study in how to win elections. I remind honourable members that in my earlier period in this place, in that government, I questioned the financial viability of the State Bank, and it is of enduring interest to me that both Labor and Liberal were very quick to castigate anyone who cast any doubt on the financial viability of the State Bank.

**The Hon. T.G. Roberts:** You were very brave.

**The Hon. IAN GILFILLAN:** Yes, braver than Tim Marcus Clark, who would not meet me to discuss the issue on North Terrace; he scuttled across the road. That gave me the first indication that, in fact, things really were rotten in the State Bank. Any given issue can be dealt with—

**The Hon. T.G. Roberts:** He crossed the road when he saw you coming.

**The Hon. IAN GILFILLAN:** Yes, but you did not, minister. I know that I am being distracted, but I think it was a telltale sign that the general manager of the bank was well aware that things were rotten and the state would have to pay for it. To return to the issue of the debate and the way to win elections, any given issue can be dealt with in one of three ways. First, if you can convince enough of the public that you are right, you trumpet that issue and your position as loudly as possible. If you cannot sell your message to the electorate, you can either use the small target strategy and seek to avoid the issue or, if you cannot avoid the issue or persuade the public on your position, you then hug your opponent and adopt the same position they have so there is no point of

difference that could sway voters. Labor chose to do the latter.

Over the eight years of the Liberal government, debt was whittled down. I do not praise the members of the Liberal Party for this, as this occurred at a devastating cost to this state and our finances. Between November 1993 and 2001, $8.5 billion of state public assets were sold for a net reduction in debt of only $5 billion, which is not good news for us. Treasury figures show that from 2001 onwards South Australia will be increasingly worse off in net terms than had we not sold our electricity assets.

With the last money from the State Bank debacle virtually gone (that was the actual salvaging of what value was left in the carcass of the dead State Bank), debt from the State Bank is largely a memory. It is important to remember that the issue around the financial management of the previous Labor government was not a question of debt management. However, given political debate over the past decade, one could be forgiven for thinking it was.

To continue in this way will inevitably lead to negative impacts upon the state economy. Even the Economic Development Board agrees with this assessment. In the Framework for Economic Development in South Australia it states:

> The EDB considers that the government's zero net borrowing funding constraint (which requires that operating revenues cover all expenditure, including capital and infrastructure investment) is not compatible with a long-term economic development strategy.

Paul Chapman, a senior economist at the Convergent Communications Research Group and now lecturer at the Adelaide University, put the matter eloquently in a research paper commissioned by the Australian Democrat parliamentary team in 1998. He said:

> South Australia has an ongoing need for an inflow of capital. This is to say that, like Australia as a whole, South Australia saves insufficiently to finance its investments. The situation is not a result of our being profligate so much as it is the result of our having a great many investment opportunities. There are three ways in which SA can raise the inflow of funds it needs. We can allow outsiders to invest (car making operations); our private entrepreneurs can borrow money from outsiders; or, government can do the same. The optimal strategy is to combine all three, maintaining the last especially because our government is large and creditworthy and so can raise debt more cheaply than our locally owned private sector, which generally lacks firms of a sufficient size and sophistication.

I remind honourable members who might not have read the recent *Adelaide Review* that Paul Chapman has a very interesting article in that newspaper entitled 'Petrol Sniffing'. I am sure the minister has read that article. It goes a lot further than that, and I will quote again from that article later in this contribution. I would urge honourable members to read the whole of that article in that edition of the *Adelaide Review*.

More important than the question of whether we utilise debt is the question of minimising the cost of servicing any given debt. I stress here that we can gain positive benefits from utilising the prudent use of debt, particularly given that the current costs of servicing debt are relatively low. I do feel that we have been conditioned to have an allergy to the word 'debt', which does not sit very comfortably with the fact that practically every business—in fact, I would say categorically every business—which is expanding profitably has, at some stage, had substantial debt as part of its economic structure. There is no reason why the government of this state should not be taking a similar approach.

While this government seems to be afraid of using this kind of debt, there is a danger that it will find ways of discreetly pushing costs onto future governments. When a government is faced with having too little income to cover its expenditure, there are a number of options open to it:

- It could increase taxes and hence increase its revenue stream;
- It could reduce its general operating expenses;
- It could postpone long-term spending, such as road repair; or
- It could finance a portion of its expenditure through debt.

Another way that has become fashionable amongst governments, at the moment, is utilising public-private partnerships. These PPPs are tools that other governments around the world are using, most notably the Blair Labour government in Britain.

There has been substantial concern within the community that these PPPs are, in effect, privatisation. I have spoken quite strongly on this issue, and declare that they would be more accurately known as public privatisation partnerships. The government, I note, is particularly sensitive to this. In the Department of Treasury and Finance PPP guidelines for the private sector it is stated:

> The government is strongly opposed to privatisation. Partnering arrangements are not privatisation. Under a partnering arrangement, the government retains a key strategic interest in the infrastructure and strong policy control over the services delivered and in many cases shares the risks of the project in agreement with the private sector partner over the life of the service agreement.

This, I contend, is questionable, and the degree of so-called key strategic interest and so-called strong policy control that the government would retain will vary, depending on the type of project and the type of partner with which it is undertaken. The Framework for Economic Development in South Australia states of PPPs:

> PPPs are not a 'magic bullet' funding solution, as they are funded directly by the public on a user-pays basis or by the taxpayer over a period of time. What they are is an alternative procurement option, which may or may not provide greater value to the government than traditional funding options. PPPs should be viewed as a vehicle that results in the purchase of services, as opposed to the purchase of assets.

While I agree that PPPs are not a magic bullet, the EDB is much more generous than I am in defining their value. I take an example that I used in my speech in relation to the Supply Bill, and honourable members may remember this. For some time, $10.5 million has been allocated to the building of the Mount Barker Police Station. This government has chosen, instead, to allow private interests to build and own the station and then simply rent it back from them. This appears in this year's budget as a $10.5 million saving. However, the costs are spread over future years. Anyone with any ability to find out what are the accumulated costs of rent will realise that it is more than likely to finish up as a higher cost to the community than had we invested the $10.5 million upfront. As I said, it becomes a form of hidden debt, where the public is denied information on the total cost of the project.

The second issue is that the project is likely to cost us more in the long run, as in the case of the Port Macquarie Base Hospital in New South Wales, which was funded under a PPP agreement. The result was that the people of New South Wales were saddled with paying $143.6 million dollars over 20 years for a hospital that cost $50 million to build. On top of that, at the end of 20 years, the hospital will still be owned by a private company. That is why public private partnerships are called P3s—because the taxpayer has to pay

three times over. The question this raises is that, given that the government can avoid being held to account in the short term, is it willing to accept increased costs to the public in the long run in exchange for surpluses in short-term budgets? I would like to be able to say no, but I am afraid that I cannot say that with any confidence.

I cannot let this speech pass without raising my outrage at the way in which the CFS has been treated by this government. A couple of issues were raised in regard to the CFS in the budget—the increase in regional offices and the increase in fire prevention programs. I also read in the estimates committee proceedings minister Conlon's expression of contempt for the CFS. Members may know that there are a number of black spots around our state in the GRN pager coverage. I have been told that there is a need for up to half a dozen new towers to patch the holes. While this network is to be utilised by the full range of emergency services, it is obvious that it is the CFS that would most likely utilise these systems where the gaps are. The minister has told the CFS that it must itself fund further towers if it believes them necessary. I quote from the minister on 24 June in Estimates Committee A:

> Underlying the member's question was that they should not have to spend the CFS money: they should spend something else. The CFS budget is government money. The emergency services levy does not begin to pay for all of emergency services. It was one of the worst introduced and worst run levies in the history of revenue raising. The fact is that, out of consolidated revenue, we have been filling in holes and making the GRN work ever since we came to government. The situation at Auburn [that is the CFS centre] is no different from the situation across government. We inherited a system that was inadequately planned and inadequately funded.

These towers cost some half a million dollars. This is the cost of a couple of fire trucks, and is not something that the CFS should pay for out of its recurrent budget.

Regarding the issue of primary industries, the most notable point is that there is no provision within this budget to help the primary industries sector deal with the implications of the introduction of genetically modified crops. There is no provision within this budget to set up and police genetically modified free zones. The only solace I can take from that is that perhaps this is an indication that the government will support the Democrat move for a five-year moratorium on GM crops in the state; therefore, this cost would not be needed. I have my fingers crossed.

I note that the government has allocated some $12.4 million to the vexed issue of petrol sniffing in the Anangu Pitjantjatjara lands. While I appreciate this allocation of funds, it is, however, not enough. Mr Paul Chapman (to whom I referred earlier), in his article in the July 2003 edition of the *Adelaide Review*, estimates that the needed figure is closer to $22 million. It is, I am afraid, indicative of the government to allocate token funds to different areas. It has done so in the past to get media. Perhaps this is the first example of its doing so to help it to avoid bad publicity. Perhaps it has learnt something from the Cora Barclay funding debacle. It is, of course, too little to achieve what needs to be done. I quote from Paul Chapman's article:

> Ours is not a government working through a detailed, explicit, pre-planned set of policies—not a government working a clever strategy. But nor is it merely poll driven. . . Instead we have a tactically astute government, responsive and self-protective.

The Democrats support the passage of this bill, but my message to the government is this. I believe that the government has a choice: help South Australia build a vision of where we want to go, of the place in which we want to live, and then help the people of South Australia move towards that vision, or surrender the responsibility of government for others who are not afraid to govern for the long term and for the benefit of all South Australians.

**The Hon. R.D. LAWSON:** I rise to support the passage of this bill but, at the same time, to lament the missed opportunities that the second budget of this government represents. This year's budget does not provide a blueprint for economic development in South Australia. It does not provide economic and employment opportunities for our young people. It is a budget simply of treading water and not producing any exciting, innovative or progressive programs to advance our state. It is a budget (as the Hon. Ian Gilfillan has mentioned) that is more about public relations and opportunities for media spin. Premier Rann is bathing in the glory of the previous government's achievements when he opens things such as the new State Library and when he enjoys the benefits of the Convention Centre and other projects—infrastructure that was developed under the previous government around the state. But where are similar developments in the pipeline? This budget contains very little in the way of new projects.

This government inherited a treasury that was in good heart, notwithstanding the misrepresentations of the Treasurer in that regard. There was no black hole. The previous government had managed this state's finances responsibly. This new government has come along and enjoyed the benefit of that treasury, but is not prepared to invest in those projects and programs that will improve the prospects of our state; rather, as I said, it is treading water and relying upon spin.

I am reminded of the pledge that Mike Rann gave to the people of South Australia and which he widely distributed at the time of the election in February 2002. Under Labor he promised, 'There will be no more privatisations' yet, notwithstanding that bald promise, with respect to the department for which I have some portfolio responsibility (the Justice Department), and contrary to its undertakings to the Public Service Association and other unions to which it is answerable, we saw the government renewing the prisoner transport contract. In my view that was a sensible decision, but it was a decision that was inconsistent with the pledge that Mike Rann had made.

At the earliest opportunity the government was prepared to quit the National Wine Centre and place it in the hands of an institution separate from the government, namely, Adelaide University. Again, that decision may well have been reasonable enough but it was inconsistent with the pledge that Mike Rann sought to be elected upon. Secondly, he promised, 'We will fix our electricity system and bring in cheaper power.' Again, a promise that has not been honoured either in the performance or in the budget which we are currently considering.

'Better schools and more teachers' was the third pledge Mike Rann made, yet we see that the investment made in our schools and our teachers is largely illusory. The fourth promise, 'Better hospitals and more beds' is laughable. This government has, in fact, cut spending in real terms to hospitals and cut the number of beds in hospitals. The much vaunted 'generational review' has been an exercise in media spin. One only has to see the back-downs that the government made when any public pressure was applied in respect of any of the proposals that were being floated by the Generational Health Review.

The government was not serious about commissioning a review and acting upon its recommendations: it was more interested in meeting the demands of nightly television broadcasts. And one sees that more recently and more graphically in the saga of the Cora Barclay Centre—an excellent centre, funded through government for many years, providing an opportunity for young deaf people in our community to learn to speak and supporting their parents, yet this government's first reaction was to reject their pleas. Next, the Treasurer used the usual tactic of bullying and intimidation by suggesting that he would send in the Auditor-General to audit the centre's books, thereby creating a public perception that the centre had been operated inefficiently.

**The Hon. A.J. Redford:** Of course, Cora Barclay could not have been aware of how tough the Auditor-General can be on internal investigations.

**The Hon. R.D. LAWSON:** Indeed, there was no basis at all for threats and intimidation of that kind. Again, when the headlines on television that night were unsatisfactory from the government's point of view, it cobbled together yet another solution to try to paint over, from the government's point of view, a situation that was absolutely indefensible. The fifth promise made was 'proceeds from all speeding fines will go to police and road safety' and, although that is not part of my portfolio area, I do not see that that promise has yet been implemented.

'We will cut government waste and redirect millions now spent on consultants to hospitals and schools—Labor's priorities' was another pledge. Again, we have not seen evidence of any real increase in investment in our hospitals and schools. There have been no really innovative programs. This government fell into office by virtue of the support of the member for Hammond. Obviously, the Premier anticipated that that arrangement might not persist for very long and foresaw the possibility of an early election; so, he took the political and tactical decision of ensuring that no unpopular decisions were made in the first year of government.

He commissioned many reviews, and reviews are wonderful because they enable ministers to say to whatever interests are knocking on their door, 'Yes, we will take into account what you are saying. Yes, we will accommodate you.' You say yes to everyone and then say, 'We are having a review to examine it and all will be well in the fullness of time.' But the pigeons are coming home to roost, and it will not be long before this government has to make some hard decisions about what it is going to do and what it is going to invest in, which necessarily means what it will cease investing in.

There are a few programs in the Justice Department that I will mention specifically, and the first is crime prevention. As all members of the council know, in the past year $800 000 was cut from local crime prevention programs in this state. Under the last Liberal budget, crime prevention within the Attorney-General's Department was funded to the extent of $3.2 million. That was reduced in actual terms to $2.3 million in the financial year just completed. This year there is to be a further cut of more than half a million dollars, and the investment in crime prevention will be reduced to $1.755 million.

This is a case of a government that is penny wise and pound foolish. This is a government that is not prepared to make any significant investment in crime prevention. It would prefer to appoint more public servants than provide for sensible, grass roots programs out in the community. It is alarming, first, that the government last year should have torn up the contracts that it signed with local government and thrown them back in the face of committed crime prevention officers appointed around the state—again, this year, crime prevention is cut.

Prevention is better than cure and investment in strategies of this kind is something that should be developed rather than cut. In respect of the diversionary courts program, the Drug Court and the Mental Impairment Court are both good initiatives which were instituted under the previous Liberal government. Whilst the government has continued to fund them at existing levels, there does not appear to be any commitment or desire to make the additional investments which will ensure that those programs flourish. They were established under the previous government and they have proven themselves, and the state of the evaluation of each of those programs was such that more investment should have been put in, but that has not occurred. So, the community will not get the full benefit of programs of that kind.

Rehabilitation within prisons for sex offenders is a program for which I am happy to applaud this government. It is true that, until this government in this budget made a commitment of $1.5 million for sex offender rehabilitation programs, our gaols alone of all the gaols in Australian jurisdictions did not have a dedicated sex offender program. I commend the government for introducing it, although the circumstances of its introduction are suspect. Only a few weeks before the announcement that these moneys were to be made available, the Attorney-General was out on public radio bagging the effectiveness of such programs, saying that he did not believe that they were effective or worthwhile and saying that the government would rather spend its money elsewhere yet, when a judge (Justice Nyland) made some adverse comments and the Premier in his usual fashion made abusive and disrespectful comments about that judge, it became obvious that the government would have to get itself out of that particular situation by establishing such programs in the gaols.

Notwithstanding that, the Premier went on public radio with an offensive and aggressive statement that the courts were being put on notice that their programs would have to be effective. Of course, it is not the courts themselves that operate these programs but the Department of Correctional Services. In questions to the minister it is obvious that no preparation for this had been made. There had been no selection of the type of program to be implemented. They have simply made an announcement and put out a press release saying that there is to be $1.5 million for this program, in order to shut up reasonable questioning in the public arena.

The question of prisoners on remand, and the fact that South Australia has the largest proportion of any Australian state of prisoners remanded in custody, again arises. Once again, this government has not provided any additional investment, nor does it have any plans as to how that situation is to be addressed. The cost of keeping prisoners on remand is high. In our correctional institutions there is great demand for spaces and beds, yet people who have not yet been tried, not yet been found guilty and not yet been sentenced are occupying valuable space. True it is that that issue has to be balanced against the reasonable demands of the community for safety from the depredations of some people who are on bail. But this government has not produced anything in the nature of a plan, a blueprint or the like. That is disappointing.

The government has agreed to continue funding the Drug Court, but the response of the government to the much

vaunted Drugs Summit indicates that that exercise was, once again, just an exercise to achieve good publicity for the Premier, in particular. In terms of the results of the Drugs Summit and the many recommendations that came out of it, very little money was put into the implementation of any of the recommendations. Most of the recommendations are on the shelf, where they will gather dust into the future. Within the prisons the major recommendation of the Drugs Summit was the establishment of a methadone program. Most of the money that has been employed in meeting the recommendations of the Drugs Summit is in fact going on a methadone program.

A methadone maintenance program will not ultimately resolve our drug problems. It will provide sustenance to some people for some time. Once again, it is treading water rather than really addressing the serious issues of drugs in our community and the effect that they have on the activities of persons disposed to commit crimes. So, the implementation of the Drugs Summit recommendations was yet another demonstration of the failure of this government to come up with programs that are effective and worthwhile and represent good investment.

The Constitutional Convention was not mentioned in this budget, although information provided suggests that moneys in last year's appropriation will be used to pay for it. Notwithstanding the spruiking of the government and the convenor of that convention that it is going to be an outstanding success and there is a great deal of interest and enthusiasm in the community for it, I have to record here my view that, given the way in which the convention has been organised; given that the deliberative poll organised in the way that it has been organised is to be the only way in which the Constitutional Convention is to be progressed, it is highly unlikely that South Australians are going to see any useful benefit from the $600 000 that the government has invested in this convention. It is true that the Liberal Party would have supported the proposal of the member for Hammond for a constitutional convention: we do not resile from that fact. However, we are not going to get anything out of a convention organised in the way in which it has been.

In the field of Aboriginal affairs, once again, the budget is disappointing. Whilst some moneys have been allocated to Aboriginal programs, the recommendations of the petrol sniffing task force are not going to be fully implemented. The recommendations of the Coroner made in connection with the petrol sniffing deaths cannot be fully implemented on the moneys that have been applied to this program. It is true that a number of targets in the justice area are aimed at improving the situation with regard to Aboriginal people, but the investment is simply not there.

For example, in the police department, the launch of the Aboriginal Cultural Awareness training and workshop is something that is to be commended but, unless there is real investment, especially in the Anangu Pitjantjatjara Lands, there simply will not be any significant progress in this important area. As I said the other day, I welcome the establishment of the Joint Parliamentary Committee into Aboriginal Lands, because I think this parliament does owe a duty, not only to the Aboriginal people but to the wider South Australian community, to see that the resources of this state are being effectively deployed to meet the needs of Aboriginal people. In conclusion, this budget is full of disappointments. It shows no vision. It shows no blueprint or clear way ahead for the development of the state.

**The Hon. CAROLINE SCHAEFER:** I, too, support the second reading of this bill, with no great joy. In particular, I will focus on the department that I shadow, the Department of Agriculture, Food and Fisheries, and on regional communities in general. It saddens me to see the primary industries sector of this state almost totally ignored by the current government. Not only did it suffer cuts of some $18 million (or 12 per cent of its total budget) in the last budget period but, on top of that, it has suffered another $2.7 million in cuts in this budget. That, added to the fact that we have a CPI increase of approximately 3 per cent, would indicate that again there will be savage cuts to what is left of the primary industries department. This comes on top of what has been one of the worst droughts in the state's history and the fact that our primary industries are largely exporting industries, and we are seeing exponential rises in the value of the dollar against overseas currencies. I find it amazing that the Rann government can effectively cut funding directed at farmers in a year of unparalleled environmental hardship when we look at the vast areas of Australia and South Australia that have been affected by the drought.

The Rann government made much of its funding for drought affected areas, but I understand that very little of that funding has been directed to farmers at this stage. In fact, only some $76 000 of that drought funding has been spent to this stage, yet the additional amount allowed in this budget is $2.7 million, so again it begs the question of where the $5 million, as indicated by the government, has gone.

The government also underspent the allocated management programs section of the budget by some $6 million. They are the management programs that administer such areas as FarmBis, and I am sure everyone in this chamber has heard me ask question upon question about the cut back to FarmBis in the last budget, yet there was a carry over of some $6 million which, upon questioning in estimates, has not been carried over but has been allocated back to general revenue. We see that line as not being reduced, but it could be said that it is largely last year's funds being reused. There is no parallel increase in funding. It was explained to us in estimates. How frustrating it is as a shadow minister to be unable to conduct questioning in estimates myself. I know this has been an issue of some contention for many years. When he was a member the Hon. Mike Elliott continually asked that upper house members be given the courtesy of being able to participate in estimates, and I add my voice at this time to that plea. However, the members who did the questioning for me did so very well.

It was explained to us that the $5.7 million of the $6 million underspent had gone back into general revenue but was tagged for primary industries. I will be one who watches with some interest to see whether the spending for the management of programs increases by $6 million in the next budget. As I see it, the Labor government is propping up this year's primary industries budget with last year's unspent funds. Essentially the Labor government is not giving primary industries the recognition it deserves. Again I was concerned at the amount of rhetoric in the Economic Development Board's economic blueprint or final report, which is the blueprint for this state to go forward and thrive over the next 15 years. However, we all know that this state is largely dependent on primary industries for its export income.

There was not one mention other than one line which said that the grains industry was a fully mature industry. That was the only mention of primary industries within the whole report, and then only in a table describing it as a fully mature

industry and therefore not capable of expansion. In many ways that sums up the view of this government with regard to primary industries.

The capital investment expenditure has been cut by $5 million. I would be the first to admit that primary industries is not a department that attracts a great deal of capital investment funding. The only two projects to be funded within the capital investment line are the rehabilitation of the Brukunga mine and the finishing of the pipe at West Beach. They have been ongoing projects for a long time and therefore I cannot see how they can be completed when that line has been cut by $5 million.

Interestingly, the two highlights outlined by the Rann government for primary industries were $3.2 million expenditure on a national livestock identification scheme and the funding of $3.1 million for fisheries inspectors. They were the two highlights of this government for primary industries, yet a closer investigation of those two outstanding features shows that in fact 75 per cent of the $3.2 million for national livestock identification is to be funded by industry itself. In fact, the program will not proceed unless industry agrees to that scheme. The $3.1 million for fisheries inspectors is simply to inform those fisheries inspectors who were engaged under the Liberal government that when the three-year rolling funding finishes at the end of this budget period they will not get the sack. It is not new money but simply the same money rolled over.

Perhaps I can best summarise the despair that is out among the people by quoting from some of the letters I have received in the past month or so. I have a copy of a letter received by the minister from one of the major horticulture associations, which I will not name but which states:

> Since the Labor Party took government just over 12 months ago, we have seen the heart and soul ripped from the Department of Primary Industries and Resources and SARDI. Currently we are very confused at the vision the government has for primary production, with particular concern for horticulture in general. The government has:
>
> (a) removed the strong sustainable resources section from PIRSA and placed it with the new super Department of Water, Land, Biodiversity and Conservation. This obviously reflects the government belief that sustainability of primary production is of a lesser importance than general natural resources. This is an interesting scenario, given that a large percentage of the land within South Australia is in some form of primary production and, therefore, farmers control a greater percentage of the state's natural resources;and
>
> (b) the government has forced major cuts to the PIRSA and SARDI budget, placing a number of important industry PIRSA programs under severe jeopardy.

It goes on to name a number of projects about which it is concerned. At about the same time as I received a copy of that letter, which was sent to the minister, I received a copy of another letter from the Murray and Mallee Local Government Association, again to the minister, pointing out the need for retention of research officers at Loxton and thanking the minister for retaining one of those research officers. However, they expressed their extreme concern that there is no commitment for the retention of that officer even for the whole of this budgetary year, let alone into the future.

I now move to the skeletal remains of PIRSA, which has been split. As we know, many of the operations of primary industries have now gone into the environment department, as was quoted in one of those previous letters, and is under the section known as the Department of Water, Land and Biodiversity Conservation. It is interesting to note that while the environment department actually received a net increase in funding, that section which was directly related to primary industry suffered a cut of $11.5 million. So, in the last two years Primary Industries—as we knew it—has suffered something like $32 million in cuts. I believe that probably sums up the attitude of this government to primary industries and, therefore, to exporting within this state.

We have had, under the auspices of minister Hill, a number of other knee-jerk and, I believe, ill-conceived-ideas—clever little ideas which the minister must have thought would get him some sneaky income and which would hit those people outside the metropolitan area, for whom he probably does not particularly care. Perhaps the classic of those ideas was his announcement, in the previous budget, of taking crown leases into the realms of commercialisation. We have watched the debacle go on now for over 12 months while people have endeavoured to prove to the minister that crown lease perpetual meant exactly that. It meant a perpetual lease, and was to be treated in the same way as freehold. Even the federal court found, in regard to native title rights, that crown lease perpetual was, for all intents and purposes, to be treated in the same way as freehold. Yet this minister was unable to see that.

We now have the ridiculous situation where people will be forced to make decisions as to whether they freehold their properties or not without actually being able to see the legislation as it applies to them, because that particular debacle has yet to be debated in either house, in spite of my long and loud calls for that to happen. It is also interesting that minister Hill said on radio that he was surprised that I had bought into the debate since it had nothing to do with me. Well I can assure you, sir, that that is not the view of the hundreds of farmers who have written to me on the assumption that it would be my province as shadow minister for primary industries.

We have also seen and will debate, I believe before we rise, the new water tax. In spite of this government's promise that there would be no new taxes there is, in fact, to be a tax on all SA Water users across the state. The size of that tax and how it applies, however, seem to vary greatly across the state. Another issue that this government has implemented is water use restrictions. I have held a number of meetings for my own information along the Murray and in irrigation areas, and I must say that I am most impressed by the goodwill of the irrigators and the fact that they recognise that there is a need for water restrictions.

However, what they have asked for is some proper consultation and, again, that does not seem to be something that this government understands. I want to quote from just one of the people who have corresponded with me, and, again, this is from a copy of a letter that was sent to minister Hill:

> The amount of time and resources spent by the staff of this trust during the consultation period was time-consuming and costly to us. At the end of the day, when your decision was made it appears that:
>
> 1. The easy option was taken.
> 2. Your department was not prepared to put much effort into investigating the options put forward, such as allocating additional staff to do so.
> 3. There is no confidence in your department for Water Allocation Plan Appendix C contents, which could have been used for the crop water requirement option.
> 4. Individuals, rather than the results of the consultative process, have influenced the final decision.
>
> The board has also been advised that water transfers will now attract stamp duty.

Again, if that is not a new tax and a new charge, I do not what it is. This letter goes on to say:

> This seems to be a double hit on irrigators, now that leasing of water will be necessary for some irrigators to survive this drought period, if they can afford it. Surely some concession could be made to alleviate this impost in such a difficult year.
>
> Finally, the board was very disappointed that you, as minister responsible for this decision, were not able to be present at the Waikerie community information meeting.
>
> Minister, we ask that you reconsider your decision and make available your departmental resources to have a much closer look at a more equitable method of distributing our limited water resources.

Again, those people are not unwilling to suffer restrictions, but they want to have real input into how those decisions are reached.

There were a number of visionary issues that the previous government had. I question where they are now. One of those was what we called the Food for the Future program, and which is now the State Food Plan. Where is it? What is happening to it? It was one of the highlights of the previous Liberal government's budget; and yet there is no mention of it whatsoever in this year's budget. I ask also, what happened to the compact to eradicate branched broomrape by fumigation—as I recall it, complete eradication of branched broomrape by fumigation. It seems that the river fishers are perhaps the only people who have been affected by the compact, because it seems that that is the only promise that the government made to Speaker Lewis that has been kept.

Again, I point to the fact that within this primary industries budget, there is no allocation for compensation for the fishers. On top of that—and again I go back to minister Hill's department—it appears that the dairy industry in the Lower Murray Flats is set to lose 80 dairies and 1 300 jobs, and quite possibly a processing plant in Murray Bridge, because this government has failed to understand the urgency of rehabilitating the Murray Flats in a method that is affordable to the industry. Again, they have gone in with the view that this is not really terribly important, that this is more about greedy dairy farmers than it is about environmental improvement, with a view to keeping one of those flats in production and having the environmental advantage of keeping those people there as caretakers of the land.

It saddens me that there appears to be no vision for primary industries in this state. There are no new projects. A new project that I know was submitted for budget consideration was the MISA project, which was to be a combination of the various scientific research institutes involved with marine scale research and aquaculture research. It was a joint submission from the various R&D providers, including Adelaide University, Flinders University, the University of South Australia, SARDI and the SA Museum. Nothing has been heard of that, along with a myriad other projects that I could but will not mention on this occasion.

It saddens me because, as the shadow spokesperson for primary industries, it appears that I am shadowing a shadow. Only the skeleton of the department is left. There is also only the skeleton of the goodwill developed over many years between the department and the practitioners of primary industries throughout this state. There is no vision, there are no new projects, there is no enthusiasm for old projects and the department is rapidly becoming tired and rundown because this government does not care.

**The Hon. A.J. REDFORD:** In rising to speak to this bill I propose not to spend too much time on debate. We all know that this government has a stench of corruption hanging over it, that it is paralysed by inactivity and that it is poll driven. Of greatest concern to the community is this government's lack of compassion. It has no inherent compassion and its inability to make a decision and its instinct for bullying has become clearer and clearer over the past 18 months. The only time it demonstrates compassion is if its attention is drawn to it through the media. The evidence is clear and it is unnecessary for me to go through it again.

I cringed when I heard the Treasurer deliver the budget and describe it as the budget of our dreams. The Treasurer is not known for understating his case, but I have to say that I nearly fell off my chair when I heard this budget described in that way. I went through it in some detail to see whether I might have missed something, and, if I have missed something, I have still missed it, because I am yet to hear anyone else call it the budget of our dreams.

The first matter that I want to raise appears on page 6.14 of Budget Paper 3. In relation to SA Water, it states:

> The future profit outlook for SA Water is less certain. In particular, the ongoing drought is likely to have a material impact on SA Water during 2003-04 and possibly in subsequent years. Restrictions on extractions from the River Murray were announced on 20 May 2003. SA Water may lose revenue from any water sales, with a 10 per cent reduction in water use representing an indicative profit reduction of around $15-$20 million (lost revenue plus advertising and enforcement costs less savings in pumping and water treatment costs).

That is qualified by the further comment that it could vary substantially. In the same budget paper, at page 7.5, in the chapter entitled 'Risk Statement', the risk is again repeated that there is an indicative profit reduction of around $15 million to $20 million. It is interesting to note that the actual figures at page 6.3 indicate a total revenue or net profit increase of some $6.2 million. In other words, on the face of it, the $435 million of revenue is likely to be $410 million, some $25 million short. Interestingly, the Treasurer says in the papers that Treasury and Finance and SA Water will be reviewing these and other cost pressures as part of a more general review.

I asked some questions about this matter shortly after the budget was brought down, and it is interesting to note that, true to form, because the government is consistent about one thing, it is yet to answer my questions. I would ask the government, in responding to my comments, to draw the relevant ministers' attention to them, and perhaps do me and other members of this chamber, because I know that they are interested in the answers, the courtesy of providing a considered response to my questions.

The other issues I want to raise concern a couple of portfolio areas. First, in relation to employment and training, the only major thing that I can see for employment is the $25 million SAMAG investment, and even that is clouded in some degree of mystery, conflict of interest and indecision, particularly having regard to the chair of the Economic Development Board's position in relation to that. Other than that, very little is spent on infrastructure, particularly rural and regional infrastructure. In the Regional Statement, the government acknowledges the importance of the regions in determining our future economic growth, and then it proceeds to disappoint us quite significantly in relation to its capital investment in that area.

If one looks at the economic outlook in Budget Paper 3, one notes that the forecast is for slowing economic activity. Our gross state product growth at 3¾ per cent is slightly above the national average. Our employment growth is about 2¾ per cent for the 2002-03 year. It refers to the exchange rate and makes the prediction that employment growth for the

next financial year is 1 per cent. That is half the employment growth of last year.

The government itself is hardly demonstrating any confidence in its own budget and in its future in South Australia. It might say that world economic conditions are slowing down and that, as a responsible manager, it has to take that into account. However, what really concerns me, if that is the case, is that the employment growth rate for this coming financial year is nearly 60 per cent less than the predicted national average. We can hardly blame international conditions on those sorts of predictions. One might think that we have a government that has little confidence in itself and little confidence in the economic outlook so far as this state is concerned.

I take members now to the Portfolio Statements. There are a couple of issues that I wish to raise, particularly in education. First, at page 11.9, I note that, in relation to gender participation in the VET client group, female participation did not hit budget. I would be interested to know why that is the case. Secondly, at page 11.10, in relation to the quantity of services to be provided, the paper cites that the government and university collaborative activities have targets yet to be set. I would be obliged to know when the government proposes to set targets and whether they will be publicly released.

If I can make a general comment, I think that, in its presentation, the budget each year that I have been a member of parliament has improved, and in that respect I acknowledge that there has been some improvement in the presentation of this budget on last year.

**The ACTING PRESIDENT (Hon. R.K. Sneath):** You like the cover of the document.

**The Hon. A.J. REDFORD:** Mr Acting President, I am grateful for that but, no, it goes deeper than the cover. In fact, I am actually referring to the content as well. I know, sir, that you are exceedingly busy, and I know that you often have other things to do, but I suggest and urge you to open the cover and go through it in some detail, because there has been an improvement in the presentation. Indeed, the presentation, in some respects, does vary from portfolio to portfolio. I looked at further education, because I have one child involved in further education, and I was interested to see that some of the figures appear to be—

**The Hon. Kate Reynolds:** Rubbery.

**The Hon. A.J. REDFORD:** Yes, rubbery; that's the word I was searching for. I am grateful for my colleague the Hon. Kate Reynolds' interjection. If one looks at the Portfolio Statement in relation to further education, one sees that youth programs are down by 1 000 participants; I would like to know why. Business Development Assistance is down by 900; again, I would like to know why. Business incentives, or incentives for employment, are up from 714 to 940 (up by 200), and I would appreciate further details being provided in relation to that. Government traineeships and apprenticeships are down by 110. Indeed, one of the success stories of the previous government was our traineeship system, but this government seems to want, for some reason, to walk away from a very successful traineeship program. In that respect, I would be grateful if the minister could provide us with a statement as to whether she received any advice from any quarter that there was any problem with the government traineeship and apprenticeship system and, if so, what advice.

I see at page 11.15 that the government has said that consultancy expenses in the department of further education are zero, yet earlier in the budget papers it refers to the Kirby inquiry. There does not seem to be any provision for the Kirby costs, and I would be grateful if the minister could tell us what the cost of the Kirby consultancy might be. I note at page 11.16, that employee entitlements are up by some $2 million, from $5.99 million to $7.9 million. I would be grateful if some explanation could be provided as to why that is the case and where those employee entitlements are to go.

In relation to the same portfolio, if one looks at the Capital Investment Statement, at page 7, it refers to an investment program of $8.6 million in relation to the Marleston Campus, Douglas Mawson Institute (which has a total project cost of $17.6 million), the construction of additional teaching facilities at the Murray Institute of TAFE, the replacement of substandard and undersized facilities for Veterinary and Applied Science, and the provision of IT systems and infrastructure for TAFE institutes. In respect of each of those, I would be grateful if the minister could tell me when the tenders will be let and when construction will commence.

Finally, in relation to the Budget Statement, at pages 2.30 and 2.31, the minister refers to revenue initiatives; in particular, the sale of land and buildings at the Flinders Street School of Music and the sale of land and buildings at the North Adelaide School of Art. I have to say that both those initiatives are entirely consistent with this government's attitude towards the arts. I would be grateful to know how they can be categorised as 'revenue initiatives' when, in fact, it would appear, on the face of it, unless the Department of Further Education, Employment, Science and Technology is in the business of buying and selling schools, to be to capital expenditure. I see the former treasurer is nodding vociferously at that particular comment.

The other issue is the cornerstone of this budget, that is, the River Murray. Indeed, we have been talking about the River Murray for decades now, and one might be excused for saying that it is entirely appropriate for anyone listening to any politician talking about the River Murray to look at whether or not we are just having another series of rhetorical statements or whether something serious is going to happen. Indeed, in his budget speech, the Treasurer referred to 500 gigalitres being returned to the river over five years, with an aim to return, over 15 years, some 1 500 gigalitres. He then announced $10 million for the water allocation plan, a further $10 million for environmental flows, and a dedicated River Murray levy, or tax, as the community has now come to understand it. I must say that I look forward to the bills going out and the reaction of the various Labor backbenchers in marginal seats.

In the Budget Statement, the government indicates that it expects to raise some $20 million out of this levy. It has expenditure initiatives of $79.2 million (at page 1.12), an improvement program of $1.5 million (at page 2.25), a stressed environment water monitoring (at page 2.26), and an extra expenditure of $3.3 million in primary industry. There is also some capital investment, including a national action plan for salt interception, and a comment about a matching contribution from the commonwealth. In that respect, I would be grateful if the government could advise whether that matching contribution is a concrete agreement or whether it is the subject of further negotiations with the commonwealth.

In Budget Paper 3, at page 2.26, there is a series of initiatives, including the River Murray Improvement Program, and then there is another significant sum of money being spent on the River Murray Improvement Program—other initiatives. I would be grateful if the government could list what initiatives it currently has in mind in relation to that

budget line item, because that is an expenditure of over $40 million. Again, I would like some detail about the River Murray Improvement Program—water quality improvement, under the heading 'Operating initiatives' under the 'Environment Protection Authority'.

I refer members to Budget Paper 4, Volume 3. At page 9.41, I see some very interesting statements by the government. At the bottom of the page (in very small print) it states that it has the following highlights for the current financial year:

> Further implement the State Water Metering Policy, with the objective that all licensed water use will be metered.

I would be grateful if the government could provide me with information about how much it expects to fund in relation to that, how much it expects the private sector to fund and what will be the total cost. Secondly, in relation to the objective of progressing the 'Water Proofing Adelaide Project', which I understand aims to improve the efficiency of water use within metropolitan Adelaide with the release of a discussion paper, I would be grateful if the government could indicate when that discussion paper is likely to be released. Thirdly, at page 9.42, there is the following objective:

> Work is planned to proceed on the construction of drains and the protection of remnant native vegetation as the Upper South-East Dryland Salinity and Flood Management Program enters the next stage.

I draw the relevant minister's attention to the annual report of the South-East Drainage Board, which comments that the future of that program is in doubt because of a lack of funding. I would be grateful if the minister could provide me with a response in relation to the assertions made by the South-East drainage authority. In relation to Budget Paper 3, page 2.25, there is a number of savings initiatives which give me cause to ask questions. At the bottom of page 2.25 it states:

> Assessments—reducing the level of assessments including hydrogeological assessments.

Then there is a saving over the next four years of nearly $1.2 million. At the bottom of the page it states:

> Water monitoring and resource assessment—monitoring of both ground and surface water monitoring networks to be restricted to those areas where the resource is under stress.

There is a saving there over the next four years of some $3.2 million. In other words, in this budget we have budget savings over the next four years of more than $4 million in terms of assessing water and our resource in this state.

I would be grateful if the minister could outline in which areas he says the water resource is not under stress. In other words, which areas does the minister say no longer need monitoring because our water is not under stress? I look forward to that answer with a great deal of interest because, the way I read the papers and the way I listen to the rhetoric, I thought that all our water was under stress. If the minister can find a non-stressed water resource in this state, I would be very interested to hear from him—and, indeed, I am sure that the electors in the seat of Mount Gambier would also be interested to hear what the minister has to say about that matter.

My next concern relates to industrial relations. I refer members to Budget Paper 3, page 2.21. I note that savings are required of the Employee Ombudsman of some $165 000 over the next few years. I would be grateful if the minister could, first, advise me whether or not there was any prior consultation with the Employee Ombudsman in relation to that budget cut and, secondly, his response in relation to that budget cut. I will not go into too much more detail other than to say that, while this minister is savagely attacking the independent parliamentary Office of the Employee Ombudsman and spending a huge amount of time fiddling around with his budget, on the other side of his portfolio he has managed to drop a lazy $300 million, which marks the deterioration of WorkCover.

I also have a series of questions in relation to the justice portfolio. A number of savings are set out in the Budget Statement at page 2.14. It indicates that there will be savings in the order of about $3.75 million for the Magistrates Court by way of a reduction in the number of adjournments or remands. I would be interested to know, given that the courts are still independent (or they were the last time I looked—in theory, at least), how we can make a budget cut or reduction in relation to those items, and how the Attorney says that they are likely to be implemented.

The second item is an increase in expenditure, which is described as 'Operating cost pressures—funding to meet cost pressures in South Australia Police.' I would be interested to know what are those funding pressures. In the true tradition of the Labor Party's continuing ideological blinkered vision over the issue of health benefits and, indeed, our health system, I note an interesting saving initiative under 'Ambulance cover'. It states:

> Ambulance cover—ensure private health insurance companies pay SA Ambulance for services provided.

Then there is, over the next four years, nearly $3 million worth of savings. Again, I would be interested to know, first, which health insurance companies do not pay for the services and, secondly, what impact that will have on health insurance premiums.

At page 2.14 (and I am sure that the Hon. Terry Cameron, if he was here, would be very interested in this) there is a revenue initiative described as, 'Road safety initiative—rate increase for Traffic Infringement Notice fines.' There is quite a significant increase in expected revenue of some $5 million. Again, I would be interested to know how the government says it will achieve that target—that is, by increased activity or by a substantial increase in fines. I also note that some objects are set out in Budget Paper 4. In particular, it refers to (at page 4.13) a target of conducting a hand gun buyback between 1 July and 31 December 2003 as a result of legislative changes.

I will not be churlish and criticise the government for pre-empting the legislative changes, but I would be interested to know what details the government can provide in relation to the hand gun buyback and, indeed, whether there will be any contribution in relation to that proposed buyback from the commonwealth. I query the government's statistics in relation to performance indicators. Page 4.19 states that the targeted number of reported offences per 100 000 head of population was 1 379 as a target in the last financial year, yet 1 516.9 were actually reported.

This year it has budgeted 1 395. I just wonder whether the government is claiming that this year there will be a drop in the number of reported offences and, if it is claiming that, the basis upon which it can make that claim. At page 4.40, the government indicates that, in so far as the SA Ambulance Service is concerned, under the heading of 'Sale of Goods', there will be an increase from the 2001-02 actual figures to the budgeted figures this financial year of some $9 million (from $39 million to $48 million), which is a 25 per cent

increase. I would be grateful if the government could explain why there is such a significant increase.

At page 4.116, the government announced a target of establishing regional crime prevention programs in a number of areas involving local government as a key partner. Given that local government might not actually trust this government, given that it tore up an agreement entered into, I would be grateful if the government could provide me with a list of the regions or areas in which it proposes to establish a crime prevention program, the details of such a crime prevention program and the cost or estimated cost in relation to each of those programs. I also note that, in relation to the Courts Administration Authority, today's *City Messenger* newspaper comments about increased charges for court fees. The article entitled 'Whig Gowans' states:

> Just before signing off, the government gets you coming and going in Her Majesty's courts these days. Should you have recently appeared before Freddo SM and then been 'damned to death' for infringing some stricture precious to HH, to appeal his decision to a single judge of the Supreme Court will now set you back $970!! (In Indonesia, for instance, such a fee will also guarantee the success of the appeal).

I would be interested to know whether that is correct and how we can possibly justify charging people these sums of money when they are really seeking justice over amounts of the order of $5 000 to $10 000. It just does not seem to be fair at all. I would hope that Whig Gowans has got it wrong.

*The Hon. T.G. Roberts interjecting:*

**The Hon. A.J. REDFORD:** No idea. I think it is a fictitious character. I note that this will prick the attention of the Hon. Terry Roberts because I do have a couple of questions about corrections. Page 4.162 of the budget papers sets out the number of offenders or prisoners completing offence focused programs. I note that in the 2001-02 year, 2 731 programs were completed, yet the target for the next financial year is some 2 700 programs. If this government's law and order program, its improved DNA and improved detection is to lead to more offenders being apprehended (and that is what the government is claiming), does that necessarily mean that, as a proportion of offenders, fewer people will receive the focused programs referred to at that page?

If one looks at page 4.164 the estimated daily average prisoner population was 1 480 prisoners and the target next year is 1 508 prisoners, an increase of some 28 prisoners over the daily average of prisoners held. We all know that there is an accommodation shortage, and I just wonder how the minister proposes to deal with that, particularly in relation to women's prisons. I must say that I find it exceedingly concerning—and demonstrates consistently a lack of compassion, indeed, a lack of any understanding this government has about anything to do with law and order—that the daily average remand population in prisons is set to increase from 495 to 506.

Given that we have the highest remand rate in the country, why is it that the government is not seeking to implement strategies to reduce the number of prisoners kept in remand? I would be interested to know whether the government will acknowledge that it has no interest in reducing the remand rates in relation to offenders. More interestingly, if one looks to page 4.166, the actual community service orders imposed in the 2001-02 year were 5 461, and that dropped, according to these figures, to an estimated result of 4 082. I would like to know what, if any, initiatives were taken by the government and why, which would lead to a reduction in the number and level of community service orders, and whether in fact more people are being sentenced to gaol in lieu of community service orders thereby putting more pressure on our prison system.

I could ask other questions about corrections but I will not go too far into the detail. I have two final issues: first, I note a press release issued by the Hon. Trish White on 3 July last entitled 'Maintenance injection for South-East schools'. The press release goes through the capital works program over the next 12 months for schools and preschools across the South-East. The release states that it will spend $2.25 million improving the conditions of schools and preschools across the South-East over the next 12 months. I would be most grateful if the minister, in respect of each electorate in this state, could provide me with what she proposes to spend on maintenance in each electorate over the next month consistent with the $28 million school maintenance program set out in that press release.

Secondly, at page 3.26 there is a total budget of $1.386 million for the Independent Gambling Authority. I would be grateful if the government could provide me with a detailed copy of the Independent Gambling Authority budget that sets out how that is to be expended consistent with what we might receive from any separate authority.

My speech has generally been seeking answers to questions. I am not confident, based on past experience, that the government will give any attention to them. I warn those who advise the government ministers about answers that, if I do not get them within two or three weeks, what I propose to do is embark upon a fairly extensive and lengthy FOI process. I know that that will tie up more bureaucrats and for longer periods of time than if the government attempts to address the answers to my questions in a reasonably prompt fashion.

**The Hon. KATE REYNOLDS** secured the adjournment of the debate.

## CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 July. Page 2845.)

**The Hon. A.L. EVANS:** This bill deals with home invasion and the circumstances when self defence will be available. It provides that if the defendant (the householder) genuinely believes that they are defending themselves from the commission of an offence of aggravated serious criminal trespass, the defendant can use such force as they genuinely believe to be proportionate to the threat that they genuinely believe they are facing. There are exceptions under the bill: for instance, if the home owner is carrying on criminal conduct that may have given rise to the invasion.

The other exception is if the home owner is experiencing a self-induced intoxication, where their judgment is substantially impaired. Under the bill, it is the defendant (the householder) who must prove to the court that he had a genuine belief that the thief was committing home invasion. The bill removes the role of the jury in making the determination of whether the defendant's conduct was reasonable, proportionate to the perceived threat. It means that householders will be protected from conviction for a criminal offence even if their violent response is utterly unreasonable and unnecessary, provided that the householder is sincere in their mistaken belief.

It is interesting to note that this bill does not touch on the issue of civil liability. Householders who use unreasonable and excessive force will remain liable to compensate their victims if sued in a civil court. I understand that we are the first state in the world to introduce this type of legislation, and it is radical, to say the least. In essence, an individual can kill an intruder if the individual thinks it is appropriate. The bill casts away all restraints on the use of force, and I believe it sets a dangerous precedent. By removing the jury from the determination of reasonable proportionality, the ethical judgment of the community is taken out of the equation. The inclusion of the jury is the closest thing in the legal process to democracy. Their exclusion is entirely without basis and is a win for those on the moral fringes of our society who could capitalise on this type of law.

The consequence may be a less safe community. I am especially reluctant to support a bill that has not been tried and tested anywhere else. This is not a progressive piece of legislation. On the contrary, I believe it is regressive, and I question whether there is any need for it. The DPP currently has the discretion on whether to prosecute. An example was Albert Geisler, who was in his eighties, who shot an intruder in his house. Mr Geisler was an experienced shot and the man died. The DPP quite rightly made a decision not to prosecute. I am reluctant to support the passage of this bill.

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

## STATUTES AMENDMENT (NUCLEAR WASTE) BILL

Adjourned debate on second reading.

(Continued from 14 July. Page 2847.)

**The Hon. A.L. EVANS:** I am concerned about the integrity of the Public Park Bill, which seeks to create a public park in the area that the federal government has now acquired. Even if the state government is legally and technically entitled to class this area as a park through the use of a clause that makes the bill retrospective, I still have my reservations. The government's political ploy, I believe, violates the spirit of the law, and this is of concern to me. I do believe that it is important for us to have integrity with our laws as an example to our community; that we observe not only the letter of the law but also the spirit of the law. As such, the government should lead the rest of the community by example.

I am also concerned that under the Statutes Amendment (Nuclear Waste) Bill nuclear waste has been classified as a dangerous substance. The bill provides that nuclear waste is a prescribed dangerous substance and therefore, if nuclear waste is to be conveyed or kept, a licence must be obtained, which includes the necessity of obtaining an environmental impact statement. I am unhappy with the exaggeration of the danger. I understand that trucks carrying low level waste on our roads are less dangerous than the huge petrol tankers that travel down our highways and pass towns every day.

What increases the hypocrisy of this aspect of the bill is that every day from Roxby Downs along our highways yellow cake travels through our streets to Port Adelaide to be exported overseas (and there is talk of doubling the amount so that even more yellow cake can travel down the roads). This substance is arguably more dangerous than low level nuclear waste, yet the government is silent in this area. Another absurd aspect of this bill is that the commonwealth can circumvent its provision by simply using Defence Force trucks. They do not need to obtain a licence: they can do what they want.

There is a strong possibility that the state will not be successful in any challenge made to the Public Park Bill by the federal government. There is little doubt that the state's position has been substantially weakened as a result of the federal government's acquisition of the land. In essence, we are debating a bill in relation to land that we are currently not entitled to claim as a public park because it is owned by the commonwealth. It all seems a little farcical. There is a clause in the Public Park Bill that provides for the legislation to be made retrospective to 3 June 2003. The state would argue that it has every right to declare the land a public park, given the retrospective nature of the bill. If backdated to 3 June 2003, then the land is still capable of being declared a public park.

The commonwealth has exercised a right under the Lands Acquisition Act 1989 to acquire the land, using its power to do so under section 24 of that act. That section provides that the land may be acquired by the commonwealth, provided that the minister is satisfied that there is an urgent necessity for the acquisition and it would be contrary to the public interest for the acquisition to be delayed. If the Public Park Bill is passed, there is no doubt that the state will be disputing the validity of the acquisition made by the commonwealth, on the ground that there was no urgent necessity and nor was it contrary to the public interest for the acquisition to be delayed.

An added concern to me relates to the situation if the commonwealth is not successful in the High Court, even though I believe that that is highly unlikely. If the commonwealth is not successful, the federal government is likely to simply shift the location of the dump to Woomera. Woomera is commonwealth land and the federal government would not need to jump any hurdles in respect of that land. Low level radioactive waste is being held in 130 sites across South Australia in 26 towns and suburbs. The state government itself has not ruled out the possibility that it will use the low level dump for this state's waste if the dump is located here. We have an absurd situation where the government is opposing a low level dump but, if it is located in this state, it just may use it. I know there are 2 030 cubic metres of mainly low level radioactive waste in 10 000 drums sitting under a hangar in Woomera. What will happen to that waste? Surely it is safer in a purpose built facility.

I have received all sorts of opinions relating to the likely legal costs of such an exercise. The Premier today in a ministerial statement stated that the expected fees will be $2 180. I spoke to a constitutional lawyer who told me that it would be $130 000 if we are unsuccessful. I have heard everything from $2 180 to $2 million. Aside from the cost issue, the whole integrity of the government's approach has caused me a great deal of concern. I do not believe in playing political games with these issues. Family First made a promise at the election that it will oppose a national nuclear dump in this state, but it did not make a promise to support a measure that was designed simply as a political point-winning exercise that had little or no chance of success. It did not make a promise to support measures that have questionable integrity.

My advice is that the state has little or no chance of success in relation to litigation and that the cost of the legal battle may be substantial for this state; and, if we are successful, the federal government may simply move the

location to Woomera. We would have achieved nothing other than a huge legal bill and a disappointed public who have been led to believe that there is some hope of keeping a nuclear dump out of our state. We have a promise from the federal government that medium level waste will not be located in this state. In my thinking that was a brilliant outcome for the government, but, instead of firming up that promise by enshrining it in legislation, the state government seems obsessed with pursuing this course. I am therefore having great difficulty coming to terms with these bills. I support the second reading of both bills.

**The Hon. T.J. STEPHENS:** I rise to speak against the Statutes Amendment (Nuclear Waste) Bill and the Public Park Bill. I am very disappointed that the government has once again used the spectre of nuclear waste or, more accurately, radiological technology to run a scare campaign against what is scientifically and environmentally the safest place in Australia to store this low level waste. The debate that has raged in public and the rantings of members of the government have illustrated the lack of understanding members opposite have on this issue and the cynical and divisive way this government will manipulate public opinion to frustrate sound public policy.

The public relies on its elected representatives to make informed and mature decisions based on fact and reason. That is why I am disgusted by this bill and the public campaign the government has waged against this repository. It is irresponsible of the government to reject the scientific advice provided to the federal government and use empty and mindless populism to make its rather weak case against the repository. If the government has scientifically verified information that there is a safer place to have the repository, then it should present it to the public. It has not, so instead we get a 10 second sound bite of 'not in my backyard' and the Premier feigning indignation at the federal government's commitment to placing the waste in the safest place in Australia for this grade of radiological waste.

My question is: if the government has no advice that there is a safer place to put the waste or has not presented it, therefore implicitly accepting that the site is the safest place, does the government actually want to place the waste at a place that is not the safest place in the country? Is that not what it is really arguing—that the waste should go to somewhere that is not the safest place in Australia? I am also concerned, given that this is a cynical public relations exercise, about the cost to the taxpayers if this bill passes, which will result from the court action that follows.

The land has already been acquired by the commonwealth under perfectly legal and justifiable means. In fact, several comments were brought to my attention in recent days as this debate carried on, most notably those of Adelaide constitutional lawyer Mr John Williams, who said in respect of this bill and its retrospectivity that the problem is that the commonwealth ultimately has the authority and, when you have inconsistent laws between the two, commonwealth law will prevail. I remember the Tasmanian dams case where the High Court ruled in favour of the commonwealth on an environmental issue, something which the ALP government still crows about. Therefore, it is not as if the ALP government here is unaware of the precedent the Labor Party itself set.

The minister made comments in the media that he intends to drag this out for as long as he can so the issue becomes a referendum at the next federal election. The federal ALP is so inept that it is begging its state counterparts to fight its campaigns for it. Clearly, the state government is trying to scare us, but given a chance to present the facts to the people it would accept the logic that the waste should be stored in the safest place possible, as has been scientifically determined.

More importantly, the people of South Australia should be outraged that the government, which knows full well that it will fail in its bid to have this legislation pass on constitutional grounds, will waste their money when there are serious issues facing this state, with people who have been ravaged by the Glenelg floods needing help, a public transport crisis in our midst, allegations of corruption at the highest levels and the dire state of our hospitals and schools. The member for Giles said in respect of the wasting of taxpayers money on court action, 'I don't think people are at all concerned about the state government going ahead'. I am sure that message will resonate with the people of Roxby Downs, home of the Olympic Dam uranium mine and one of the great economic jewels of South Australia.

For members opposite I point out that it is the uranium we sell all over the world and not just to South Australian companies. A few weeks ago I went to the Arcoona Station with my colleague the Hon. David Ridgeway and met with Mr Pobke. As my colleague has already stated, Mr Pobke made his feelings about this bill very clear. He is absolutely opposed to the Public Park Bill. I make that very clear so that the government understands this: the holder of the Arcoona pastoral lease, the people who will be closest to the repository, do not want the Public Park Bill to pass this parliament. As the Pobke's point out in a fax I received from them last week, it is an amazing circumstance that the state would remove ownership of what is essentially a person's private property. It is socialist in its intent and execution. There never will be a park in the true sense on the Arcoona Station, and it is deceitful and misleading to argue there will be.

I do not intend to reread the points others have made regarding Mr Pobke's position, other than to say that, unlike the government, members on this side have made a real effort to consult with him and seek his opinion on what should happen to the land he holds. We have met and spoken with him at length, which leads me to the last point I would like to make in my contribution, namely, the media campaign the government has embarked upon at taxpayers' expense that has spread untruths and misrepresentations.

I have a duty to correct the government on several points of fact. The Hon. Bob Sneath compares a radiological repository to the nuclear weapons testing at Maralinga. Surely this is an insult not only to the people affected by those tests but also to the intelligence of the South Australian people. I am sure they can tell the difference between x-ray garments from hospitals and intercontinental nuclear weapons. It is a pity that the ALP cannot see that.

The government as a whole also argues the case for listening to the people, responding to talk-back radio and newspapers. I am pleased the government has announced a change in ALP policy in this regard and look forward to its support of the federal government's border protection policy, which has been endorsed by a popular vote at the last election and its continued support in newspapers and talk-back radio. Accusations have also been levelled at the federal government in respect of lying about the GST. I point out that the Howard government went to the people in 1998 with a comprehensive taxation policy, including a GST, and won. The Howard government is the only government on the face

of the earth ever to be returned after announcing that it would introduce a GST.

For the first time the government is claiming that it is listening to the wishes of the farmers, so I hope it will do the same when it comes to the barley single desk. I hope that on that issue it will listen to popular opinion and the wishes of the farmers. The most curious claim I heard was that the government had no problem with South Australia storing its own waste, but was concerned about the safety of transporting it across vast reaches of South Australia. South Australia already transports radioactive material on its roads and interstate courtesy of its uranium industry. The same headlines, dangers and concerns that the government raises will exist even if the facility contains only South Australian waste. It is quite ridiculous. The Labor government has clearly and unequivocally stated that it supports a radiological waste repository—all they are haggling about is its size and who actually foots the bill: this state or, as I would prefer, the commonwealth.

**The Hon. J.S.L. DAWKINS:** I rise to make a brief contribution on this cognate debate, and in doing so I would like to endorse the comments made by my Liberal colleagues, led by the Hon. Angus Redford. I have been alarmed over a number of months by the government's hypocrisy on these issues, as well as the hypocrisy displayed by some elements of the media, and I would like to highlight this by reading a letter that was published in the *Advertiser* yesterday (14 July) which came from Mr Barry Wakelin MP, the federal member for Grey, who has represented the area designated for a low level radioactive waste repository for almost 10 years. The letter states:

> The *Advertiser* (9/7/03) became a player by criticising Prime Minister Howard and Senator Minchin for their alleged bad attitude on the low-level radioactive waste issue. The editorial further alleges that "reprehensible" damage will be done to communities and individuals if this outrage proceeds.
>
> Not one skerrick of scientific evidence is offered by the editor.
>
> That being the case, how does the *Advertiser* explain to South Australians the fact that the same low-level radioactive waste has been at Woomera for 10 years—dumped there by Labor—with no complaint from Premier Rann at the time and without one second of consultation with the community that the *Advertiser* pretends to defend!

As I said, that letter came from Mr Barry Wakelin MP, the member for Grey.

In this brief contribution I would also like to respond to some of the comments made by the Hon. Bob Sneath in the debate in this chamber on 8 July. As part of the Hon. Mr Sneath's contribution he said:

> It is time that they showed some concern for our grapegrowers. We can imagine what the French will do when there is a big market up for grabs. They will say, 'You wouldn't want to get it from South Australia; they've got nuclear waste buried everywhere there.'

Firstly, as has been pointed out by some of my colleagues, there is obviously no intention to bury nuclear waste 'everywhere', as quoted. There is one particular location that has been identified as being the best place for this low level waste to be stored, and stored safely, rather than the way it is currently stored at Woomera, and has been for 10 years, as mentioned in Mr Wakelin's letter.

In response to the comments of the Hon. Mr Sneath about the attitude the French might have to South Australia having low level radioactive waste in its northern extremity, I would like to inform the council of information that has come to my attention recently regarding the storage of low and medium level radioactive waste in France. Indeed, since 1992, French low and medium level waste has been stored in the Aube region. A new site has now been chosen for underground storage in the Meuse region. The Aube is in the well-known Champagne region, and the Meuse is next door in the Lorraine region of France.

*The Hon. R.I. Lucas interjecting:*

**The Hon. J.S.L. DAWKINS:** As the Leader of the Opposition says, it is right in the middle of some of France's most famous wine-growing areas. Both these areas are located in north-eastern France and are not that far distant from Paris. I think those few words indicate the alarm that I have about the gross hypocrisy that has been put forward in relation to what I believe is a responsible position from the federal government to make sure that low level waste is stored responsibly in the best area possible. Of course, as I think was highlighted by the Hon. Mr Evans earlier today, there has been a determination from the federal government that medium level waste will not be stored in South Australia. With those few words, I indicate my opposition to both bills.

**The Hon. J.F. STEFANI:** I rise to indicate my opposition to the second reading of this bill. Before detailing my reasons for not supporting the government's legislation, I would like to place on the public record my preferred position about the establishment of a nuclear national waste repository in South Australia. Like many other South Australians, I would have preferred the federal government to consider building a national repository in another state. However, the inescapable facts indicate that, as a state, South Australia has been a most willing and cooperative participant in the site selection studies initiated at national level and conducted over a period of more than 10 years.

It is important for me again to mention that, on 21 October 1991, the Hon. Don Hopgood, the then deputy premier and minister for Health, wrote to the Hon. Simon Crean MP, the then federal minister for primary industries and energy, acknowledging the South Australian government's concurrence for the need to establish a radioactive waste disposal facility in Australia. The letter further confirmed that South Australian officials would continue to take part in a desk study process with a view to proposing a short list of suitable sites for further discussions between the commonwealth and state governments. The communication also reaffirmed that South Australia had been represented on the commonwealth/state consultative committee since its inception and would continue to be so in the future.

I refer to a media release dated 3 June 1992 from the Hon. Ross Free MP, the then federal minister for science and technology, which states:

> 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 the site of a national nuclear waste repository.

The federal minister went on to say:

> These changes follow concerns raised by the Senate Standing Committee on Industry, Science and Technology, and representations by the local member, Robert Tickner.

Mr Free's statement followed the announcement by the then minister for primary industries and energy, the Hon. Simon Crean, that a study to identify a suitable national repository site had been commissioned. I remind honourable members that the Hon. Simon Crean is now the federal Leader of the Opposition. I would like to further place on the public record that in his press release Mr Free said:

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.

Mr Free said:

Taken together, these actions put beyond doubt the government's assurances on Lucas Heights. Over the last few weeks, legitimate public concerns over safety have been cynically exploited by the state government's representatives in an attempt to divert attention from their incompetent administration.

I note with interest that, on Tuesday 23 August 1994, Senator Peter Cook, then minister for industry, science and technology, issued a press release stating that low level radioactive soil waste from Lucas Heights would be transferred to the rangehead near Woomera for interim storage. The soil was collected in 1989 and 1990 during a clean-up of a site at Fisherman's Bend, Victoria. In 1992, the New South Wales Land and Environment Court ordered that the material at Lucas Heights be removed by February 1995. Other radioactive waste material at St Marys, site of Australian Defence Industries, would also be removed to Woomera for interim storage.

Senator Cook advised that the Department of Primary Industries and Energy was coordinating a study to identify a site for a permanent, national, near-surface repository for low level radioactive waste. The phase 2 report from the study, which identified possible sites, was released for public comment by the federal minister. In May 1995, the Department of Defence issued a public notice concerning the transportation of certain radioactive waste material from St Marys, New South Wales, to an interim storage facility at Woomera rangehead. That was due to occur before the end of June 1995.

The packaged volume of waste was approximately 40 cubic metres, or 150 drums. The waste included obsolete medical radium sources, radium based luminescent paint powder, obsolete radium-contaminated laboratory equipment, electronic valves, luminescent watch and compass faces, night markers and spent sealed medical sources. The radionuclides, which comprise the main part of the waste, are: cobalt-60; radium-226; americium-241; strontium-60; and caesium-137. The waste also contained very small amounts of radionuclides, including a minute amount of plutonium-239. The Australian Nuclear Science and Technology Organisation (ANSTO) had packaged and treated the waste to render it safe for transport and storage.

The packaged waste was to be transported by road in standard shipping containers. Transportation was in accordance with the requirements of the Australian Code of Practice for the Safe Transport of Radioactive Substances 1990. This code is used every day in Australia to regulate the transportation of radioactive materials to hospitals and industry. I note that the transport arrangements announced by the minister were prepared in consultation with the relevant state and commonwealth agencies.

In a proposal headed 'Transport of Certain Radioactive Waste Materials from Sydney to Interim Storage at Woomera Rangehead', the federal Labor minister for industry, science and technology confirmed that 10 000 steel drums of contaminated soil stored at Lucas Heights research laboratories were expected to be transferred to Woomera commencing in October 1994 after the required clearances and permits had been obtained from the commonwealth and state authorities.

From my understanding of this information, the Keating Labor government has given a permanent nuclear waste gift to South Australia which is currently stored in steel drums inside a disused aircraft hangar at Woomera. It is obvious that, unless the Rann Labor government can arrange for another Australian state or territory to take back this nuclear waste, which was dumped in our state by his federal Labor colleagues without our permission, I am sure that the waste presently stored at Woomera will remain for ever and a day as our unwanted property.

The present Liberal federal government is faced with the responsibility arising from the decision by its predecessor, the federal Keating Labor government. The obvious liabilities that arise in the chain of governance from one ruling party to another are well understood by every member in this chamber. As one government assumes the responsibility of the decision of the previous government, it is clear that the Keating Labor government has left an enormous legacy and ongoing liability for the long-term safe storage and security of the nuclear waste that was dumped at Woomera.

Everyone would know, and I am particularly aware, that a steel roof over any building, including the disused aircraft hangar at Woomera, will eventually rust and leak. Equally, the steel drums containing the nuclear waste materials will, over time, corrode and leak. Members would be aware that in the lead-up to the announcement of the preferred site, the federal government was advised by the Department of Defence that it should not build a repository at Woomera because of the possibility that it might be hit by a stray rocket during testing procedures at the Woomera rocket range. Clearly the federal government is on notice that it is undesirable for the present nuclear waste stored at Woomera to remain in an old aircraft hangar in steel drums.

The federal government must address this serious problem in a responsible manner because of the liabilities that would arise from the lack of action in properly and safely storing the nuclear waste in our state, and that would result in potentially disastrous damage and huge compensation claims at the expense of Australian taxpayers. I am reminded that all states and territories have willingly participated in the national project to identify a suitable site to ensure that the storage of low level waste material is properly achieved. South Australia has taken part in the national studies over a long time.

In fact, on 16 October 2001, Mr Graeme Palmer, Acting Manager, Radiation Section, Environmental Health Branch, Department of Human Services, in a memo to the chief of staff of the minister responsible for the Department of Environment and Heritage, confirmed officially:

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.

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, 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.

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 significant

hazard to people, industry and the environment if their control were not appropriately maintained. It anticipated that another 50 currently registered sealed radioactive sources suitable for disposal in a repository may emerge in the next five years.

This is the advice given by the expert, Mr Graham Palmer, the Acting Manager of the Radiation Section of the Environment Health Branch of the Department of Human Services, employed as a public servant, giving advice in an unfettered and professional manner.

From the advice provided by Mr Palmer, who, I am sure, is a competent expert in his field of expertise, the Department of Environment and Heritage was advised that a national low level radioactive waste repository is highly recommended. Clearly, Mr Palmer does not recommend the individual construction of radioactive waste deposits in every state and territory of Australia.

I would now like to refer to some advice prepared by the Information and Research Services of the federal parliamentary library dealing with the question of whether the operation of commonwealth law would override state legislation that purported to ban the proposed repository for the storage of low level radioactive waste. It is feasible that, if this bill and the Public Park Bill are passed by the South Australian parliament, they may well be overridden by virtue that they are prescribed in regulations under section 83 of the Australian Radiation Protection and Nuclear Safety Act 1998.

There is also another possibility that the proposed state legislation could well be ruled to be inconsistent with the licensing provision of the Australian Radiation Protection and Nuclear Safety Act and thus be invalid under section 109 of the Commonwealth Constitution. It follows that any attempt by the South Australian government to ban the proposed waste facility may be held to be invalid under section 109 of the act to the extent that its operation would prevent a control person from undertaking an activity that is within the terms or scope of a valid licence issued under the Australian Radiation Protection and Nuclear Safety Act.

There is a range of other possible applications of the commonwealth legislation which deal with the powers of the federal government to act in the national interest and which are enshrined in the following acts: the Nuclear Science and Technology Act 1987 and the Nuclear Non Proliferation Safeguards Act 1987. There are also international agreements to which Australia has been a party in relation to nuclear issues and radioactive materials, including the following: the 1996 Convention on Nuclear Safety; the Treaty on the Non Proliferation of Nuclear Weapons 1968; the treaties banning the dumping of radioactive materials at sea; the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management 1997 finalised by the International Atomic Energy Agency.

I would also like to make some reference to the Constitution which provides the commonwealth government with wide-ranging powers as well as implied nationhood powers that are endowed in the commonwealth government and the federal parliament as national institutions. There is very limited High Court authority to provide any indication of whether these implied powers would be successful in supporting some or all of the Australian National Science and Technology Act. However, authoritative constitutional experts have suggested that there is a strong likelihood that such powers would authorise the operation of such institutions as the CSIRO as being a national scientific and research organisation.

I have identified but a few of a number of overlapping commonwealth government legislative measures regulating radioactive materials and nuclear fuel and the weapons cycle that may be used by the federal government to fight any attempt by the Rann Labor government to prevent the safe and proper storage of the nuclear waste materials presently stored under an aircraft hangar at Woomera.

I now wish to refer to the events that occurred in March this year, when the Rann Labor government introduced the Nuclear Waste Storage Facility (Prohibition) Referendum No. 2 Amendment Bill 2003. As honourable members would be well aware, I sought to test the integrity of the government by moving an amendment to the bill, which would have prevented the Rann Labor government from depositing the nuclear waste presently stored in 26 different locations in the proposed national repository to be built by the federal government. Unfortunately, my amendment was not supported by the majority of parties.

In an effort to clarify the principal position and the strength of my amendment, in conjunction with the Hon. Nick Xenophon, constitutional lawyers were engaged to provide legal advice. As a result of our action, Family First and the Australian Democrats also joined in receiving a briefing about the government's legislation, and paying for the legal advice. I know that I would not be breaking any confidence or breaching professional ethics by placing on the public record that it was through the combined efforts of the Hon. Nick Xenophon, the Hon. Sandra Kanck, the Hon. Andrew Evans and myself that the Rann Labor government was informed that its legislation was flawed and next to useless.

It is also true to say that it was through our joint action and expenditure that the Minister for the Environment and Conservation (Hon. John Hill) was advised that the government could provide some hurdles for the federal government in order to delay the process of establishing a nuclear waste repository in South Australia. One of the suggestions made by our constitutional lawyers was the possibility of declaring a national park on the proposed pastoral properties which was being considered for acquisition by the federal government. At our briefing with the constitutional lawyers, it was also suggested that the state government might consider changes to other state legislation relating to traffic laws, as well as other laws, applicable to property and planning matters.

Therefore, I think that the state government is playing politics with the issue and is attempting to claim credit for the introduction of legislation which was based on advice obtained by and paid for by four Independent members of the Legislative Council and which was clearly considered to be a method of creating hurdles for the federal government to delay the process of establishing a national waste repository in South Australia.

*[Sitting suspended from 5.55 to 7.45 p.m.]*

**The Hon. J.F. STEFANI:** There is little doubt in my mind that the federal government is in a position to transport any radioactive waste material anywhere in Australia in accordance with the requirements of the Australian Code of Practice for the Safe Transport of Radioactive Substances 1990. Transportation of radioactive waste materials is occurring now on a regular basis from interstate to our hospitals and industry, as I have previously mentioned. It is occurring very frequently from our Roxby Downs mine to the

wharves at Port Adelaide, where uranium is loaded for export overseas.

I am conscious that, if any attempt by the Rann Labor government to frustrate the federal government was successful in the High Court, the federal government could well be forced into taking other action. For example, the federal government could be forced to declare Woomera a totally restricted territory and prohibit access to anyone. This would allow the federal government to build a national low level waste repository at Woomera to store all the waste that is presently, and unsafely, stored under an aircraft hangar. At the same time, the federal government can tell the Rann Labor government to find another location for the testing of defence-related equipment and rockets that may be of benefit to the various defence industries located in our state.

I have carefully examined and considered the complex legal issues and the important responsibilities that fall upon both the federal and state governments. I have come to the conclusion that it would be totally hypocritical for the Rann Labor government to disown its own participation in the initial process and not to declare its intention not to use the national repository to store our own waste. That proposition signals the double standards of the state Labor government, which is prepared to play politics with an emotive issue and mislead the South Australian community in the process. I oppose the second reading of the bill.

**The Hon. NICK XENOPHON:** I indicate my support for the second reading stage of both bills. However, I reserve my position in relation to the third reading—although I have indicated that I am generally supportive of these bills, but I do believe that the Hon. Julian Stefani has made a number of valid points about the government's position in relation to this matter, and I think that his speech has removed some of the hyperbole in relation to this debate.

I do not want South Australia to be a repository for a national low level dump. But I think it is fair to say that the Labor Party, both federally and at a state level, has not come to this issue with clean hands. I think it is also fair to say that much has been made by the Premier of South Australia's clean and green image being maintained, and that it would be damaged by virtue of having a low level dump. At the last state election, the Labor Party was concerned about the state's clean and green image in relation to genetically modified crops and foods, and that is an issue that I regard as being at least as important.

Many in the community who have analysed both issues would say that the issue of genetically modified crops potentially poses a greater threat to the state's clean and green image. I draw the Rann government's attention to a recently released report prepared for the Blair government on the issue of genetically modified crops and foods, and also the views of the former environment minister in the Blair government, who has given some very strong warnings about the impact of genetically modified crops and foods in terms of the potential harm that they can cause to a country's export image—in effect, to a country's clean and green image.

Initially, the Hon. Julian Stefani and I together obtained independent legal advice. My colleagues the Hon. Andrew Evans and the Hon. Sandra Kanck were part of that process in obtaining that advice and, ultimately, paying the account of the two barristers involved. It would be fair to say (and I am not being critical of the very fine lawyers who work in crown law) that, in terms of the issues raised, we were given advice that there were ways in which the bills could be strengthened, and there were ways in which hurdles could be put in the way of the commonwealth's plans to set up a low level repository in South Australia. It is not a criticism of the lawyers at crown law that they did not put these positions forward. As I understand it, the crown law officers gave advice based on instructions that were given to them. I want to make it absolutely clear that any criticism that was made previously (not by me) of crown law is, I believe, unwarranted. It was a case of the two barristers that we retained thinking laterally and taking a different approach in relation to this issue.

In relation to the government's position with respect to low level waste and where it is stored in this state, I believe the opposition's position has merit in terms of the issues it has raised. The EPA audit has been dragging on for quite some time now. I have indicated previously that if the opposition were minded to go down the path of a select committee inquiry to look at this issue, to flesh out fully what has occurred on the part of the government and how it has dealt with this issue, then, in general terms, I would be quite supportive of that. However, I still have grave reservations about South Australia's being known as the state in which the nation's low level waste is stored. I also say—

*Members interjecting:*

**The Hon. NICK XENOPHON:** Some colleagues—

*The Hon. A.J. Redford interjecting:*

**The ACTING PRESIDENT (Hon. J.S.L. Dawkins):** Order! The Hon. Mr Xenophon has the call.

*The Hon. A.J. Redford interjecting:*

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

**The Hon. NICK XENOPHON:** Thank you, Mr Acting President. A number of interjections were made by some of my colleagues and, essentially, they were all the same interjection, namely, what are we doing with the waste that we have now? I think that is—

*The Hon. A.J. Redford interjecting:*

**The Hon. NICK XENOPHON:** And in terms of the waste around the state and at Woomera: these are legitimate issues and, in due course, the government needs to tell us what it proposes to do with that waste. Some would say that, at the very least, the government has a 'head in the sand' attitude with respect to that waste. These issues need to be dealt with. The Hon. Julian Stefani, in an amendment he moved a number of months ago, attempted to flush out what the government was planning to do with the waste if a commonwealth repository were built and it determined not to use it.

I believe that the government's position in that regard was quite interesting, and some would say it enhanced their cynicism about the government's approach. When the government says that it is about being clean and green, I believe that this government is being selectively clean and green. I do not believe that, to date, the government has given the same emphasis to other green issues as it has to the low level nuclear repository issue. The issues raised by the opposition are legitimate. However, I believe that the overarching principle ought to be that we not be known as the state where low level waste or, indeed, any other form of waste, is sent so that we are known as a dumping ground.

That is my principal concern. I am concerned about the process. I know that the Hon. David Ridgway has raised the issues of the public park proclamation and the particular concerns of the land owners of that property. I say to the Hon. David Ridgway—not disrespectfully—that there are also

issues of concern as to the manner in which the commonwealth has dealt with the acquisition using its emergency powers. Obviously, if this bill passes, that issue will be dealt with in the courts.

I know that there have been estimates that litigation could cost in the millions. My understanding is that that will not be so. In discussions with the constitutional lawyer yesterday, I was informed that the costs would be in the tens of thousands, perhaps in excess of $100 000, depending how the case progressed, but that costs would not be—

**The Hon. J.F. Stefani:** I do not believe the $10 000. It cost us $2 000 just for a couple of hours' work.

**The Hon. NICK XENOPHON:** The Hon. Julian Stefani makes a point about the costs. I can clarify that. I said in the tens of thousands, not $10 000, or so, but—

*The Hon. A.J. Redford interjecting:*

**The ACTING PRESIDENT:** Order!

*Members interjecting:*

**The ACTING PRESIDENT:** Order!

**The Hon. NICK XENOPHON:** I want to make it clear that the barristers we retained were very reasonable in their charges. I think they could have charged us somewhat more.

*The Hon. A.J. Redford interjecting:*

**The ACTING PRESIDENT:** Order! The Hon. Mr Xenophon should not be diverted.

**The Hon. NICK XENOPHON:** Sometimes the diversion is not a bad thing, Mr Acting President.

**The Hon. A.J. Redford:** It makes you think, doesn't it. It makes you think about the veracity of this government.

**The Hon. NICK XENOPHON:** I think that many South Australians could be cynical about the government's approach: that it is selective about some green issues and not others. I think that some of the points raised by the opposition are legitimate in terms of where the waste will be stored. I am very disappointed that the EPA audit has not yet been completed. My understanding is that, by now, it ought to have been completed, and that is why there is an open invitation to the opposition: if it is interested, I am very open to the suggestion that a select committee examine thoroughly these issues and the way in which the government has dealt with them.

In terms of my position, I will support the second reading of these bills. I believe the government has been selectively selective in its approach to green issues, and that concerns me greatly in terms of its credibility. I also believe that the government—

*The Hon. R.I. Lucas interjecting:*

**The Hon. NICK XENOPHON:** I also believe that the government, if it is serious about dealing with green issues, should be as serious about the issue of genetically modified foods. The government took a number of policy positions at the last state election. It campaigned in relation to GMOs, and I am still waiting for the government to answer all my queries. However, the government has made—

*The Hon. A.J. Redford interjecting:*

**The Hon. NICK XENOPHON:** No, to be fair, the government is waiting on the report of the select committee on GMOs. The Premier has written to a number of crossbenchers indicating in broad terms the government's views, but it is a question of getting further details. I do regard those issues as important in terms of the state's clean and green reputation. I look forward to the committee stage of this bill, if it gets to committee. I think that a number of legitimate questions will be asked by the opposition and the crossbenchers in relation to the government's approach.

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** In concluding, I will try to pull together all the questions that have been raised. They are as up-dated as I can have them. I need to table one more document in conjunction with my reply. The Hon. Terry Cameron on 10 July 2003 placed six questions on notice. First, the Hon. T.G. Cameron asked: why has the government proposed significantly higher penalties, that is, $500 000 and ten years in the Statutes Amendment (Nuclear Waste) Bill, yet the existing act has a penalty of only $10 000? The policy of the government has consistently been to oppose the establishment of a national nuclear waste facility in this state. The objective of the Nuclear Waste Storage Facility (Prohibition) Act 2000 is to prohibit the establishment of a national nuclear waste facility in this state. Accordingly, in the current act, there is—

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

*A quorum having been formed:*

**The Hon. T.G. ROBERTS:** The objective of the Nuclear Waste Storage Facility (Prohibition) Act 2000 is to prohibit the establishment of a national nuclear waste facility in this state. Accordingly, in the current act there is a prohibition against the transport of nuclear waste for delivery to a nuclear waste storage facility. The maximum penalty in the current act for breaching the prohibition for a natural person is $500 000 or 10 years' imprisonment. As agreed in this place during the previous debate of the amendment to the Nuclear Waste Storage Facility (Prohibition) Act 2000, the government has sought ways to strengthen the act.

Clause 7 of the Statutes Amendment (Nuclear Waste) Bill 2003 has been prepared to meet this commitment by broadening the prohibition of transporting nuclear waste to a storage facility in this state. The penalty for breaching this prohibition in the Statutes Amendment (Nuclear Waste) Bill 2003 is the same as in the current prohibition act. It should be noted that the other act that is being amended by the Statutes Amendment (Nuclear Waste) Bill 2003 is the Dangerous Substances Act 1979. In the event that the government is not able to stop the establishment of a national nuclear waste storage facility in this state, the government proposes that a person conveying such waste into the state should be required to first gain a licence under the Dangerous Substances Act 1979 for that activity.

The maximum monetary penalty imposed on a natural person for not holding such a licence under the Dangerous Substances Act 1979 would be the same maximum monetary penalty as the offence against the Radiation Protection and Control (Transport of Radioactive Substances) Regulations 1991, which is $10 000. Secondly, the Hon. Terry Cameron asked: what are the levels of radioactivity of the low level waste to be stored at this site (the National Repository)? According to information provided by the commonwealth in table C1 of the supplement to the draft EIS for the near surface radioactive waste repository, the total activity of Australia's low level and short-lived intermediate level radioactive waste to be disposed of at the repository is 6.367 x 10 to the 12th becquerels in a volume of 3 700 cubic metres.

**The Hon. A.J. Redford:** What's a becquerel?

**The Hon. T.G. ROBERTS:** It's a French measurement of radioactivity.

*The Hon. A.J. Redford interjecting:*

**The Hon. T.G. ROBERTS:** Depends how many you've got. Thirdly, the Hon. T.G. Cameron asked: can the minister

assure the council that all members of the cabinet are supporting the Public Park Bill? The Independent member of cabinet, the Hon. Rory McEwen, has advised that he will reserve his position until seeing any bill that comes out of this chamber. Fourthly, the Hon. T.G. Cameron asked: 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. These questions were also posed by the Hon. D. W. Ridgeway on 10 July 2003 while reading this correspondence.

The question asked in point 8 of the letter referred to asks: 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? The South Australian government is not spending the amount of money that the commonwealth may be proposing for the upgrade of tracks, as the South Australian government is not proposing to move nuclear waste along the tracks.

The question asked in point 9 of the letter referred to asks: is the state government proposing to spend the hundreds of thousands of dollars which would be required to improve the track to passable 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? As stated above, the South Australian government is not planning to spend the amount of money that the commonwealth may be proposing for the upgrade of tracks. Routine management will be provided by existing departmental staff as needed, as they currently do with other outback parks such as the Simpson Desert Conservation Park and Regional Reserve, the Strzelecki Regional Reserve and Lake Eyre National Park.

The question asked in point 10 of the letter referred to raises the liability issues arising from the public's use of the park. I note that this question was also raised by the Hon. D.W. Ridgway on 10 July 2003. Our advice is that the risk of liability issues arising is low, particularly as persons who enter the undeveloped Outback area ought to be alert for their own safety and take proper precautions. I note that the Pobkes have not presented the government with the concerns raised by the Hon. D.W. Ridgway, despite the contact that the government had with the Pobkes and their solicitor. However, an amendment to the bill is proposed which restricts the way that a person can travel to the park to designated coordinates as stated in regulation. Defining access routes to a park and within a park is common practice and is considered to be in the interests of better land management and to further decrease the liability issues. The associated regulations will be developed in negotiation with the Pobkes.

Fifthly, the Hon. T.G. Cameron asked: has a physical audit being conducted by the EPA been completed before or after 23 June? The minister did clarify in a letter to the Hon. T.G. Cameron on Friday 11 July 2003 that, as discussed in the estimates hearing of 23 June 2003, the EPA has completed the physical audit of radioactive materials in South Australia, however, it is still preparing a report on its findings. I table that letter, which I will read into *Hansard*. Dated 11 July 2003, the letter states:

> Dear Terry, Further to my letter of 25 June 2003, I write to clarify the status of the audit of radioactive material in South Australia and the advice that I provided to both you and the estimates committee regarding this. As I advised during the estimates hearing on 23 June 2003, the Environment Protection Authority (EPA) has completed the physical auditing of radioactive materials in South Australia, however, they are still preparing a report on their findings. Dr Paul Vogel, Chief Executive of the EPA, further advised that the report is a significant document that the Radiation Protection Committee is treating extremely seriously as both a policy and technical document, and that the EPA is keen to make sure that it is right, rather than meet any particular target. I also advised that I expected to receive the report within the next few months.
>
> In my letter to you of 25 June 2003, I advised that the EPA had nearly completed the audit of radioactive material, including waste, stored in South Australia. I further indicated that the EPA is currently preparing a report on the audit. I agree that my comments to the House and to you are confusing. However, I do believe they are consistent with each other, although admittedly ambiguous. In my statement to the estimates committee, I indicated that the physical audit had been completed. My letter to you referred to the whole audit process, ie the physical audit and its report. I apologise for any confusion and reiterate my understanding that the physical audit has been completed and that the EPA is currently preparing a report which will be presented to me in the near future.
>
> Yours sincerely, John Hill.

Sixthly, the Hon. T. G. Cameron asked: what are the estimated costs of the legal action to take place in the Federal Court and the High Court? This question was also asked by the Hon. A.J. Redford on 10 July 2003. The Crown Solicitor has advised that all work relating to the legal challenge will be performed by salaried staff in the Attorney-General's Department and by the Solicitor-General.

There will be no additional cost apart from the ordinary court fees. If the challenge fails, the Federal Court may order the state to pay the legal costs incurred by the commonwealth. Correspondingly, the commonwealth will need to pay the state's costs if the South Australian government is successful. The Crown Solicitor expects those costs will be limited as the legal argument covers a narrow range of well recognised principles. It is unlikely that oral argument would exceed two days of court time.

Leave to appeal to the High Court would be sought by the state government only if it was advised that there was a reasonable prospect of success. The Hon. A.J. Redford, in asking this question, stated:

> In this situation, you would have to engage someone such as the Solicitor-General and his time is costed out.

The Hon. A.J. Redford's statement is incorrect as no charge is made to public sector agencies for work performed by the Solicitor-General. The Hon. T.G. Cameron on 10 July 2003 also asked:

> Why is that provision in the bill [clause 7], and under what circumstances does the government envisage that the Governor may, by regulation, exempt a person from the application of these penalty provisions?

In the preparation of the Statutes Amendment (Nuclear Waste) Bill 2003, the government was advised that this subsection is standard in a section that places total prohibition on an activity. There may be a situation in the future where another jurisdiction wishes to transport waste through the state as the quickest route to travel to a facility in another jurisdiction. The Governor in Executive Council may wish to enact a regulation granting a transporter an exemption from the prohibition. The regulation would be subject to disallowance by the house or the parliament in the ordinary way. The Hon. A.J. Redford on 10 July 2003 asked:

> What is South Australia's strategy to deal with its own waste?

The South Australian government's strategy to deal with radioactive waste is to manage the waste in accordance with the state's radiation protection legislation, relevant national codes of practice and international best practice approaches.

For very low level waste the strategy adopted by the previous government is adopted by the current government and authorises, under the Radiation Protection and Control Act, the disposal of very low level radioactive waste to landfill. This disposal is governed by the National Health and Medical Research Council's code of practice.

The government has also instructed an audit of radioactive material to be undertaken by the EPA. This audit involves the physical auditing of radioactive material to ensure due diligence in relation to current regulatory controls. The government will not enter into hypothetical discussions on what may be the findings of the audit report. The Hon. A.J. Redford on 10 July 2003 asked:

> Why is it taking so long for the EPA to finish and publicly disclose the results of its audit, which was announced early this year by the minister?

Radioactive material is used widely throughout South Australia and stored at a number of sites throughout the state. Unlike the previous desktop audit, which only included registered, sealed radioactive sources used in industry, science and medicine, the current audit involves the inspection and evaluation of all sites where sealed or unsealed radioactive materials are stored. Following this, there would be the assessment of results and formulation of recommendations for appropriate management of radioactive materials. This is a very complex task which, in order to give due diligence, has required considerable commitment of the time and effort of the expert scientists of the EPA's Radiation Protection Division. The Hon. A.J. Redford on 10 July 2003 asked:

> 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?

While there are many sites where radioactive materials are stored throughout the state, and their inspection requires considerable effort by the Radiation Protection Division, radiation incidents that require an emergency response are extremely rare. An emergency involving radioactive material is handled in accordance with state emergency response procedures and officers of the Radiation Protection Division will attend if their expert advice is required. The legislative controls on radioactive material by and large ensure that radioactive materials are stored in a safe manner and that it is appropriately accounted for.

The Hon. A.J. Redford on 10 July 2003 asked 'whether there have been any parks created over land which is already the subject of a Crown lease in the manner happening here'. The Innamincka region or reserve was previously a pastoral lease. The day it was proclaimed a park under the National Parks and Wildlife Act 1972, the government entered into a section 35 lease for grazing purposes over the whole of the park. There was no compensation paid for the area in which pastoral activity is still permitted. The Hon. A.J. Redford on 10 July stated:

> I understand there was some consultation [with the Pobkes], but I would be most grateful to hear what the government says took place.

I am advised by government solicitors that the following contact has been made with the Pobkes and their solicitors regarding the Public Park Bill 2003: 8 May 2003, a government solicitor contacted the Pobkes by telephone and left a message on their answering machine; 8 May 2003 the Pobkes' solicitors returned the call and after discussing the possibility of a joint response to the commonwealth the Pobkes' solicitor said he would get instructions and call the government solicitor (no further contact came from the Pobkes or the Pobkes' solicitor); 2 June 2003 a government solicitor contacted the Pobkes' solicitor and discussed the Public Park Bill 2003; and, on 3 June 2003 a government solicitor met with the Pobkes' solicitors and provided a detailed briefing of the Public Park Bill 2003. In addition, the Minister for Environment and Conservation also left a message on the answering machine inviting the Pobkes to return his call. The Hon. A.J. Redford on 10 July 2003 stated:

> I also ask whether the government has determined what costs have been incurred by the Pobkes as a consequence of this process.

The Pobkes have not sought any assistance with their legal fees. The Hon. A.J. Redford on 10 July 2003 stated:

> In addition, I asked questions about signage and what the government was proposing to do in relation to the national park.

I am advised that basic signage will be erected on the park at an approximate cost of up to $300 for the main entrance and up to $100 for each other entrance plus installation. The strategic placing of the signs and the number of signs were decided in negotiations with the Pobkes. However, working at a remote location and a park with four signs— one main sign and three alternative access track signs—together with installation, the government may pay a minimum of $1 200 for signage. The Hon. A.J. Redford on 10 July 2003 stated:

> The fourth issue I raised was that of compensation in relation to any reduction in value of the land owned by the Pobkes.

No request for compensation has been made by the Pobkes. That is not surprising, given that the only change made by the bill to their rights under the pastoral leases is that the public will be entitled to enter the land without their permission. Moreover, the area affected by the park will only be a small proportion of each pastoral lease, for example, Arcoona Station covers 3 439 square kilometres and the park will cover about 35 square kilometres. Moreover, the pastoralists will still be entitled to run stock over the park area, just as they do now.

*The Hon. A.J. Redford interjecting:*

**The Hon. T.G. ROBERTS:** What is the commonwealth doing here? Given the location of the park, the number of visitors is expected to be very small. The proposed park represents about 1 per cent of the total of Arcoona and the current valuation of the property is between $2 million and $3 million. The estimated value of the proposed park area for pastoral purposes is about $20 000 to $30 000. However, as the government is not excluding the pastoral activity from the park, there should be little or no detriment to the Pobkes. The Hon. A.J. Redford on 10 July 2003 stated:

> 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 [EIS] process.

I am advised that the range of costs for undertaking an EIS under the Development Act 1993 range from approximately $50 000 to $1 million. The cost of an EIS undertaken for the purpose of the conveyance of nuclear waste under the Statutes Amendment (Nuclear Waste) Bill 2003 is anticipated to be at the low end of the price scale. One could expect that after the first EIS is undertaken this would reduce the work and therefore the cost of producing subsequent statements as some of the information may be reapplied. The Hon. A.J. Redford on 10 July 2003 stated:

> In relation to clause 6 of the Statutes Amendment (Nuclear Waste) Bill 2003 it does not say when the minister is required to prepare the assessment report.

Once the proponent has prepared an EIS and responded to public submissions on the EIS in accordance with the requirements of section 46B of the Development Act 1993, the relevant minister must prepare an assessment report that fulfils that section's requirements. The minister's assessment report will be completed promptly, but it must await the satisfactory provision of all preceding documentation. On 10 July 2003 the Hon. A.J. Redford stated:

> 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?

Everyone in this place has been treated the same, and have been provided with the same information regarding the Public Park Bill 2003 and Statutes Amendment (Nuclear Waste) Bill 2003.

*Members interjecting:*

**The Hon. T.G. ROBERTS:** Not playing any favourites. In relation to the information that the government has regarding the EPA audit of radioactive materials, the government has provided to all members of parliament and all members of the public the information as provided in the House of Assembly on Monday 23 June 2003, recorded in *Hansard*, that:

> The EPA has completed the physical audit of radioactive materials in South Australia. Almost all of the known sites at which radioactive materials, including waste, have been kept have been inspected and a report is being prepared. . . [Minister for Environment and Conservation] expect to receive a report within the next few months.

On the 10 July 2003 the Hon. A.J. Redford stated:

> First, I want to know—and I understand 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 has provided advice concerning the Statutes Amendment (Nuclear Waste) Bill. He suggested that the Nuclear Waste Bill would complement the Public Park Bill as a legislative package. In particular, the Solicitor-General supported a suggestion made by a barrister in private practice, Mr Andrew Tokley, for the enactment of the provisions prohibiting the supply of nuclear waste for transport into the state.

I have been advised that there are a number of grounds upon which to challenge the commonwealth action in the federal court. As the government is a model litigant, we would proceed with the litigation only if we have proper grounds to challenge the commonwealth. We have been advised that there are proper grounds to challenge the commonwealth acquisition. Senior legal advisers for the government have said that the constitutionality of the Public Park Bill 2003 is not an issue. They have also said that the park meets the tests laid down by the High Court for determining whether it is a legitimate public park. The real issue is whether the acquisition by the commonwealth is valid. On 10 July 2003 the Hon. A.J. Redford stated:

> 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.

No estimate has been undertaken on these costs.

**The Hon. A.J. Redford:** Please note that I have done one and have got some advice. I will let you know about that.

**The Hon. T.G. ROBERTS:** Thank you for your assistance. On 10 July 2003 the Hon. A.J. Redford stated:

> My first question to the minister regarding this clause [clause 7] 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.

Following from the government's commitment to the chamber to strengthen the principal Act advice provided by Andrew Tokley from the independent bar proposed the extraterritorial offences. Andrew Tokley and the Solicitor-General have indicated that this section of the bill may strengthen the government's position. In regard to the second part of this question by the Hon. A.J. Redford, as he himself correctly acknowledged, it would be inappropriate to disclose the actual legal advice provided. On 10 July 2003 the Hon. A.J. Redford stated:

> It is arguable that that [clause 7] 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?

The question is hypothetical and the answer will depend upon the precise terms of any interstate law and also the particular facts and circumstances. The South Australian parliament should not be deterred from strengthening our act by a theoretical possibility that another state might enact a contrary law. I note that there are many South Australian statutes that contain provisions for extraterritorial powers. For example, section 6 of the Harbors and Navigation Act 1993 provides:

> 6(1) This Act applies both within and outside the jurisdiction.
> (2) This Act applies outside the jurisdiction to the full extent of the extraterritorial power of the Parliament

Also, section 7 of the Criminal Assets Confiscation Act 1996 provides:

> 7(1) This Act applies to property within or outside the State.
> (2) This Act applies to property outside the State to the full extent of the extraterritorial legislative capacity of the Parliament.

Section 5 of the South Australian Ports (Disposal of Maritime Assets) Act 2000 provides:

> 5(1) This act applies both within and outside the State.
> (2) This act applies outside the State to the full extent of the extraterritorial legislative capacity of the Parliament.

There is a range of legislation which relates to the finance sector that has the same extraterritorial provisions; for example, the Bank Mergers (South Australia) Act 1997.The Hon. A.J. Redford on 10 July—you were very busy on 10 July, Angus—asked, '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?' I have outlined the government's strategy to deal with our own nuclear waste. The 2010$m^3$ of contaminated soil from research undertaken by the Commonwealth Scientific and Industrial Research Organisation (CSIRO) stored at Woomera is commonwealth waste and therefore South Australia is not responsible for the management of that waste.

The Hon. D.W. Ridgway on 10 July 2003, in relation to the property at Arcoona Station, asked, 'Who will be liable for the damage done to his stock and property when the gates are not shut?' Consistent with current practice in relation to

public access routes, a person is required to leave a gate in the position in which it has been found. If a person fails to leave a gate in that position, they may be liable for damage caused by this action. The position will be no different to that currently applicable to public access routes.

**The Hon. A.J. Redford:** That's big of you. That is a huge concession.

**The Hon. T.G. ROBERTS:** Well, it is only applying the existing act. The Hon. D.W. Ridgway on 10 July 2003, in reading from a letter from the Pobkes, stated that the state government did not ever seek to consult with the Pobkes about the Public 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.

Consultation details in the letter quoted by the Hon. D.W. Ridgway are incorrect. As outlined previously, the government solicitor left a telephone message for the Pobkes on 8 May 2003, and had a conversation with the Pobkes' solicitor on 8 May 2003, and that solicitor said he would get instructions and call back. However, no further contact came from the Pobkes or the Pobkes' solicitor. The government solicitor again on 2 June 2003 contacted the Pobkes' solicitor and discussed the Public Park Bill 2003. Further, on 3 June 2003, the government solicitor met with the Pobkes' solicitor and provided a briefing on the bill.

In conclusion, on behalf of the people of South Australia, the South Australian government is opposed to the establishment of a national nuclear storage facility in this state. We are under immediate threat of becoming the nation's dumping ground for low level and short-lived intermediate level radioactive waste. The passing of the Public Park Bill and the Statutes Amendment (Nuclear Waste) Bill 2003 gives the government tools to fight this threat. The government is being true to its commitment in this chamber that we would consider new ways to strengthen the prohibition in the Nuclear Waste Storage Facility (Prohibition) Act 2000.

Through the passing of the Public Parks Bill 2003, the government will have the legal tools to challenge the acquisition of the land that the commonwealth proposes to use to establish the national repository. Through the passing of the Statutes Amendment (Nuclear Waste) Bill 2003, the government will have a stronger base for challenging the establishment of a national nuclear waste storage facility in this state. If successful, the bill will not only limit the waste that may be delivered to such a facility but also require the regulation of such waste.

Importantly, passing the Statutes Amendment (Nuclear Waste) Bill 2003 will ensure the continued operation of the Nuclear Waste Storage Facility (Prohibition) Act 2000, which prohibits the establishment of not only a national repository in this state but also a national store for the storage of long-lived, intermediate level radioactive waste. I understand that members have been circulated with the details of the statement that I have just read into *Hansard*.

*Members interjecting:*

**The Hon. T.G. ROBERTS:** I acknowledge the comments by members, thanking the minister's staff, and I hope that the cooperation continues. Further information has been requested, and I will provide that during committee.

Bill read a second time.

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

That the committee stage of the bill be taken into consideration on the next day of sitting.

**The Hon. A.J. Redford:** On what grounds?

**The PRESIDENT:** The minister does not have to provide any reason.

The council divided on the motion:

AYES (11)

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

NOES (8)

| | |
|---|---|
| Dawkins, J. S. L. | Lawson, R. D. |
| Lensink, J. M. A. | Lucas, R. I. |
| Redford, A. J. (teller) | Schaefer, C. V. |
| Stefani, J. F. | Stephens, T. J. |

PAIR

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

Majority of 3 for the ayes.

Motion thus carried.

## CRIMINAL INJURIES COMPENSATION

**The Hon. NICK XENOPHON:** I move:

That the regulations under the Criminal Injuries Compensation Act 1978 concerning scale of costs, made on 19 December 2002 and laid on the table of this council on 18 February 2003, be disallowed.

Earlier this year, I was approached by Mr Matthew Mitchell, a legal practitioner who specialises in the field of criminal injuries compensation, in relation to concerns he had with respect to regulations that were made. It should be read in the context of the Victims of Crime Act as well. I think the safest thing to do is to read into *Hansard* Mr Mitchell's concerns, so there is no question mark about their full import. He says:

With respect to the new regulations, I draw your attention to the following matters.

1. The Victims of Crime Act requires that a copy of the application be served upon the Crown Solicitor and the offender prior to any proceedings being commenced in the District Court. On my reading of the regulations, there is no requirement to inform the offender what he is to do if he objects to the obligation (this oversight has apparently been acknowledged by the Crown Solicitor's Office, who have sent to petitioners a pro forma with a request that it be included with applications sent to offenders).

2. The Crown Solicitor has informed the profession that where it is prepared to agree settlement with a plaintiff it will do so and pay money out notwithstanding the objection of the offender. Whilst this is a laudable aim, on my perusal of the Act and Regulations, it is extremely unclear what rights the offender has to contest payment of monies paid out by the Crown and it also appears somewhat unclear what rights of recovery the Crown may have against the offender who has always objected to a payment in the first place.

3. Pursuant to Schedule 2 of the Regulations, a legal practitioner is now not entitled to reimbursement of the costs of specialist reports concerning injuries. The Regulations demand the report be obtained from a General Practitioner. Many clients have never seen a General Practitioner in relation to their injuries. They may have received treatment at a hospital or attended upon the Victim Support Service or other counselling service. It is obviously most unsatisfactory to request an applicant to attend upon a General Practitioner, often 12 months after the event, and request him to prepare a detailed report, often addressing both physical and mental injuries.

4. Under regulation 4 in part B of Schedule 1, if an applicant is claiming compensation for past economic loss, his application must be accompanied by a letter from the employer confirming the period

in which the claimant lost earnings and the amount lost during the period—

Mr Mitchell has emphasised the word 'must'—

Frequently employers are not willing to cooperate. In some cases, people have left their employment due to the symptoms of a post traumatic stress disorder and not be on good terms with their employer. Whilst the Crown Solicitor may choose to be sympathetic, under strict interpretation of the Regulations, a claimant would not be entitled to compensation for economic loss unless he can persuade his employer, or former employer, to provide such a letter.

Legal costs. Under the Regulation, the scale of fees for a practitioner has been substantially increased but realistically is still at a level well below the District Court scale for civil matters. Unfortunately, the increase in costs applies only to new matters and does not apply to any matter where the solicitor has given notice to the Crown Solicitor of the intention to make a claim. In reality, most files take between six months to two years from the date of initial interview to settle, and it is unlikely that any increase of fees will be noticed until the second half of this year. In some cases, practitioners will be required to work at the old scale of fees for several years if an old matter becomes protracted.

Mr Mitchell makes a number of other points in relation to his concerns, including that, effectively, the introduction of the Victims of Crime Act on 1 January this year further reduces the category of claimants and abolishes claims where the award of compensation would not be more than $2 000. These are matters that ought to be considered seriously by this chamber.

I note that the Legislative Review Committee has also looked at this issue. I also note, from discussions I have had with Koula Kossiavelos, a barrister who also practices extensively in the field of criminal injuries compensation, that the Law Society of South Australia has forwarded material to the Hon. Mr Gazzola, as Presiding Member of the Legislative Review Committee, in relation to these regulations in a letter dated 23 May 2003. If I might precis that letter from the Law Society, it makes a number of points, including similar points to those made by Mr Mitchell, that obtaining a report from a victim's treating general practitioner may not be pertinent, in many cases; and it makes points about other problems practitioners have had. The letter states:

When a victim does not have a usual or treating general medical practitioner, the Crown Solicitor's Office should authorise a medico-legal assessment by an appropriate psychiatrist/psychologist.

Several cases where the victim does not have a usual or treating general medical practitioner are stalemated because it has been interpreted the victim has not suffered a mental injury.

An issue raised by legal practitioners is of some concern to me, and I quote from paragraph 3 of the Law Society's letter, as follows:

In some cases, solicitors have obtained reports from medical practitioners who have indicated that they are not in a position to provide an assessment of mental injury. The Crown has insisted that the medical practitioner refer the victim to an appropriate psychiatrist to obtain a report.

This indirect approach places a burden on general medical practitioners to refer patients to a psychiatrist and then obtain a report from that psychiatrist before preparing a report to the solicitor. The report may then not be as detailed as a proper medico-legal assessment which would otherwise have been obtained direct from the psychiatrist. It is not clear how Medicare will respond to this procedure, given that the referral to the psychiatrist is being requested by the general medical practitioner for the purpose of completing a report.

Other concerns were raised in the Law Society's letter, including the paragraph numbered 6 of the Law Society's letter, which states:

The transitional provision as to when notice is served under section 7(3) of the Criminal Injuries Compensation Act is subject to legal proceedings at this stage. The Crown Solicitor's Office is seeking retrospective operation of the regulations pertaining to a disbursement. This would create difficulty for legal practitioners who need to obtain reimbursement for disbursements incurred prior to the implementation of the transitional provision on 19 December 2002.

The Law Society made the following points:

In summary, the society considers that the new regulations have introduced unjustified restrictions.

- Solicitors have been prevented from obtaining the necessary medical evidence to substantiate their clients' injuries and to protect themselves from potential negligence claims.
- The regulations have increased the time that solicitors spend on each file as considerable time is being spent on seeking appropriate authorisation from the Crown.
- There have been unnecessary delays in obtaining medical evidence in many cases.
- Some cases where a victim has no usual or treating general medical practitioner have been left in limbo.

The Law Society also made the point:

We also query the power under which the Crown was able to implement the new regulations in so far as they relate to recovery of reports and hospital records.

There are some very basic privacy issues there. That letter from the Law Society, dated 23 May 2003, was signed by Andrew Goode, the President of the Law Society.

The Legislative Review Committee received a letter dated 30 June 2003 from Mr Russell Jamison, a barrister and solicitor, who also practises extensively in the criminal injuries compensation field. He mirrored the concerns that the compensation fund will not pay for hospital records, and will not pay for medical, psychological or psychiatric reports. He said:

Both of the above regulations apply to the period of negotiation which is the time when reports are usually ordered to prepare a formulated claim.

He also made the point:

The compensation fund will not pay for more than one report from the same specialty and deems psychiatrists and psychologists to be the same specialty.

Mr Jamison expressed a number of concerns in his letter to the Legislative Review Committee, and he made those points comprehensively. Mr Jamison is concerned about his professional liability in formulating a claim for a victim who claims psychological injuries without a proper assessment. His personal view is that claimants must have a proper assessment, even if they have to pay for it out of their own pockets. At least, Mr Jamison said, he can then advise them what compensation they are entitled to. I seek to table the letter from the Law Society dated 23 May 2003, addressed to the Hon. Mr Gazzola, and also the letter from Mr Jamison of Jamison & Associates, addressed to the Legislative Review Committee, dated 30 June 2003.

Leave granted.

**The Hon. NICK XENOPHON:** Essentially, the issues raised by senior practitioners in this field, and the issues raised by the Law Society of South Australia on behalf of its members are that, essentially, these matters should go back to the drawing board. I urge honourable members to disallow these regulations. They are ill-conceived in terms of their effect on victims of crime: they have a very unfair impact on victims of crime. They do not allow those representing victims of crime to represent them as they ought to be able to appropriately. This government has a tough on crime policy but it seems that, with these regulations, the government is also tough on victims of crime and that, to me, is most unfortunate.

I urge honourable members to seriously consider disallowing these regulations to ensure that the government can go

back to the drawing board. I have raised this matter briefly with the Attorney, and I will continue to raise it with him, whatever the outcome of the vote on this issue later this week. It is an important issue. The consequences are most unfortunate, and I urge honourable members to disallow these regulations.

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

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

In committee.

Clause 1.

**The Hon. R.D. LAWSON:** I move:

Page 3, line 3—Leave out 'Serious Repeat Offenders' and insert: Habitual Criminals

The purpose of this amendment is to restore the expression 'habitual criminals' to this legislation. Those who are habitual criminals, who have been convicted of a large number of offences over a period of time, have always been referred to in the criminal law as 'habitual criminals'. It is a well understood concept within the community. What the government, by this bill, has sought to do is, in our view, to diminish the significance of an habitual criminal by describing them by the softer, more politically correct, term of 'serious repeat offender'. We believe that those people who fall within this category (and they are very few) should be called what the community understands them to be, namely, 'habitual criminals'. We believe in calling a spade a spade.

The expression 'serious repeat offender' is a softer expression, and one which we think is inappropriate. We move this amendment in the context that we have a government that seeks to portray itself as tough on law and order. I saw a recent press release of Premier Mike Rann in which he used the word 'tough' six times in three sentences in order to get the message out to the community that he is tough—tougher than his predecessors, tougher than his opponents. But when it comes to the actual language of legislation introduced by the government it is softer. This amendment seeks not only to call a spade a spade but to hold this government to its rhetoric.

**The Hon. P. HOLLOWAY:** I will repeat the comments I made during my second reading response. The government opposes the amendment. The amendment would change the name of the bill from the Criminal Law (Sentencing) (Serious Repeat Offenders) Amendment Bill to the Criminal Law (Sentencing) (Habitual Criminals) Amendment Bill. This would result in the terminology reverting to that adopted in section 22 of the act. The government believes that serious repeat offenders are what the bill is aimed at, and serious repeat offenders accurately describes the measure.

The government does not think it desirable to revert to the language of the 19th century when the terminology in the bill accurately describes the measure before the committee. For the benefit of the committee, I indicate the situation in other jurisdictions. The Corrective Services Act in Queensland was amended in 2000, and section 61 refers to serious violent offenders. Section 6A of the Victorian Sentencing Act 1991 refers to serious sexual offender, serious violent offender, serious drug offender and serious arson offender. So, there is no doubt that in other jurisdictions of this country this is the terminology that is currently in practice. So, I would ask the committee to reject the amendment moved by the opposition and that we use this more modern and appropriate term, 'serious repeat offender'.

**The Hon. IAN GILFILLAN:** I indicate Democrat opposition to this amendment. So as not to take up unnecessary time of the committee I indicate that the Democrats are opposed to the whole raft of amendments under the name of the Hon. R. Lawson. The honourable member is deceptively persuasive at times in his advocacy and, for a while, I listened and was tempted to see that there was some merit in his argument. However, from the Democrats' point of view there is little to be gained by forcing the hand of the government to be even tougher on crime than it already is. Whether it portrays itself as tougher than actuality is marginal; and I know that I have been vociferous previously in attacking the government for it. I see no point, just to score some debating point, in supporting an amendment which, really, just involves semantics in the wording.

While we are on the point of wording, I think it is appropriate that the shadow attorney mentioned how frequently the Premier uses the word 'tough'. He now resorts to another word: prisons are no longer prisons but they are 'slammers' which, I think, does tend to reflect the banal approach of this government to what ought to be treated much more sensitively in the 21st century. We opposed this legislation at the second reading and we intend to oppose it at the third reading. I just repeat for the committee's emphasis that we will be opposing all the amendments on file from the opposition.

**The Hon. R.D. LAWSON:** In response to the Hon. Ian Gilfillan, I am disappointed to hear that the Democrats will not be supporting this amendment but will be supporting the government to enable the Premier to continue on his political campaign. Was I correct in understanding that, where the expression 'sentence of imprisonment' appears in this bill, the honourable member will be seeking to have that amended to 'sentence in the slammer'?

Amendment negatived; clause passed.

Clauses 2 and 3 passed.

Clause 4.

**The Hon. R.D. LAWSON:** I move:

Leave out clauses 4 and 5 and insert:

Substitution of heading to Part 2 Division 3

4. Heading to Part 2 Division 3—delete the heading and substitute:

Division 3—Disproportionate sentences and sentences of indeterminate duration

Substitution of section 22

5. Section 22—delete the section and substitute:

Habitual criminals

22.(1) In this section—

'home invasion' means a criminal trespass committed in a place of residence while a person is lawfully present in the place and the trespasser knows of the person's presence or is reckless about whether anyone is in the place;

'serious drug offence' means—

(a) an offence against section 32 of the Controlled Substances Act 1984; or

(b) a conspiracy to commit, or an attempt to commit, such an offence; or

(c) an offence of acting as an accessary to the commission of such an offence[1];

'serious offence' means an offence for which a maximum penalty of, or including, imprisonment for period of 5 years or more is prescribed and that is—

(a) a serious drug offence; or

(b) one of the following offences:

(i) an offence against the person under Part 3 of the Criminal Law Consolidation Act 1935;

(ii) an offence of robbery or robbery with violence;
(iii) home invasion;
(iv) an offence of damage to property by fire or explosives;
(v) an offence of causing a bushfire;
(vi) a conspiracy to commit, or an attempt to commit, an offence referred to in subparagraph (i), (ii), (iii), (iv) or (v)[2]; or

(c) an offence that is committed in circumstances in which the offender uses violence or a threat of violence for the purpose of committing the offence, in the course of committing the offence, or for the purpose of escaping from the scene of the offence.

1. See section 41 of the Controlled Substances Act 1984.

2. A person who acts as an accessary to the commission of an offence described in paragraph (b) is, by virtue of section 267 of the Criminal Law Consolidation Act 1935, guilty of the principal offence and has, therefore, committed a "serious offence".

(2) A person is liable to be declared an habitual criminal if—
(a) the person has been convicted of at least three offences to which this section applies; and
(b) there were at least three separate occasions on which an offence to which this section applies was committed.
(3) An offence is one to which this section applies if—
(a) the offence is—
(i) a serious offence; or
(ii) an offence against the law of another State or Territory that would, if committed in this State, be a serious offence; or
(iii) an offence against a law of the Commonwealth dealing with the unlawful importation of drugs into Australia; and
(b) either—
(i) a sentence of imprisonment (other than a suspended sentence) has been imposed for the offence; or
(ii) if a penalty is yet to be imposed—a sentence of imprisonment (other than a suspended sentence) is, in the circumstances, the appropriate penalty.
(4) If a court convicts a person of a serious offence, and the person is liable, or becomes liable as a result of the conviction, to a declaration that he or she is an habitual criminal, the court—
(a) must consider whether to make such a declaration; and
(b) if of the opinion that the person's history of offending warrants a particularly severe sentence in order to protect the community—should make such a declaration.
(5) If a court convicts a person of a serious offence, and the person is declared (or has previously been declared) to be an habitual criminal—
(a) the court is not bound to ensure that the sentence it imposes for the offence is proportional to the offence; and
(b) any non-parole period fixed in relation to the sentence must be at least four-fifths the length of the sentence; and
(c) the Supreme Court may, on application by the Director of Public Prosecutions, direct that, on the expiration of all terms of imprisonment that the person is liable to serve, the person be detained in custody until further order.
(6) If a direction is made under subsection (5)(c), the person against whom it is made is to be detained in the same way as if sentenced to imprisonment and the Correctional Services Act 1982 applies accordingly.
(7) A person who is detained in custody in accordance with such a direction is, subject to this Act, not be released from that detention until the Supreme Court, on application by the Director of Public Prosecutions or the person, discharges the order for detention.

The purpose of this amendment is to restore to the court the power to order indeterminate detention for a person who is a serious repeat offender as defined. The definition of 'serious repeat offender', for the purpose of this amendment, is the same as the government's proposed definition. The heading is 'Habitual criminals', and the expression 'habitual criminal' appears within the amendment that I have just moved. However, given the view of the committee that the expression 'habitual criminal' should not be adopted, I would seek to have the heading and the words 'habitual criminal' wherever appearing deleted and the words 'serious repeat offenders' inserted in lieu. That is necessary because my earlier amendment has failed. I seek leave to amend my amendment as follows:

Substitute 'Serious repeat offenders' for the heading 'Habitual criminals', and substitute 'serious repeat offender' for 'habitual criminal' wherever occurring.

Leave granted; amendment amended.

**The Hon. R.D. LAWSON:** Once again, the purpose of this amendment is, again, to hold the government to its rhetoric. At the present time the courts have the power to order indeterminate detention in respect of serious repeat offenders as currently defined. That court has had that power for many years. The government proposes to withdraw that power from the court so that the court cannot order indeterminate detention but has to follow the regime proposed in this bill. One of the reasons given by the government for adopting this course is that the power to declare a person an habitual criminal and order indeterminate detention has not been exercised for many years. It is our view that, notwithstanding the fact that the power has not been exercised, that of itself is not a reason to withdraw entirely the power from the court. There may be a case, albeit very rare, when it is appropriate for the court in the interests of the safety of the community to order indeterminate detention.

That is not the same as permanent detention. The system of indeterminate detention is that the court retains the power to order a release at any time when it is satisfied that it is safe for an offender to be released. This government cannot have it both ways. It seeks to portray itself as tough on law and order yet it weakens the power of the court by removing from it the power that it has always enjoyed of being able in exceptional circumstances to order indeterminate detention. The government is retaining the provisions of the Criminal Law (Sentencing) Act that relate to the indeterminate detention of persons who are unable to control their sexual instincts but is seeking to remove this particular power. We believe that the government ought to be held to its rhetoric. It should not be watering down powers. We accept that it is going to have new powers, that there will be a new regime in respect of most serious repeat offenders. However, this residual power ought to be retained.

**The Hon. P. HOLLOWAY:** This is an omnibus amendment to replace clauses 4 and 5 of the bill. The government opposes the amendment. The bill would reinstate indeterminate detention as currently provided for in the act, as the deputy leader has just pointed out. Under the amendment, the Supreme Court could, on application by the Director of Public Prosecutions, direct that, on the expiration of all terms of imprisonment that the person is liable to serve, the person be detained in custody until further order. As has been stated, sentencing theory and practice has for decades turned its face from indeterminate sentencing. That is why judges do not impose it. The Mitchell Committee, in its First Report on Sentencing and Corrections as long ago as 1973, found that there was no correctional justification for indeterminate sentences and said:

The indeterminate sentence has three serious defects. The first is that if an offender is to be detained until he is believed to have attained some imprecise state of cure from his propensity to criminal behaviour, he is likely to serve a much longer sentence than would otherwise be thought just or reasonable, because those charged with

his supervision will tend to err on the side of caution. Secondly, a situation in which a person may be detained indefinitely by others has obvious potential for abuse.

Thirdly, the effects on prisoners of an indeterminate sentence are known to be deleterious. The absence of any definite date for release induces a hopelessness and resentment which is counterproductive in correctional terms because it diminishes the offender's capacity to become fit for release.

Again, one can conclude that the opposition's amendment urges a return to the sentencing practices of a bygone era. It is contrary to known good sentencing practice for decades. The government firmly opposes it and I would ask the committee to do likewise.

**The Hon. R.D. LAWSON:** Why, then, has the government left section 23 of the Criminal Law (Sentencing) Act, which allows for indeterminate sentencing of sex offenders? If the government is serious about modern criminology, how does it justify adopting that stance?

**The Hon. P. HOLLOWAY:** Essentially, this bill is just dealing with section 22 of the Criminal Law (Sentencing) Act, and we are adhering to the principle that we are dealing with just one issue at a time. But it is important to note that sex offenders are a different case, anyway. For example, at this moment I am sure the deputy leader is aware that the report of the Layton inquiry has been released and a number of recommendations that relate to the area of sexual offenders are currently under consideration. Essentially, this bill is about—

**The Hon. R.D. Lawson:** Public relations?

**The Hon. P. HOLLOWAY:** No, it is about serious repeat offenders. As I said, the issue of sex offenders is currently being considered in the context of the Layton inquiry and, if it is considered necessary after consideration of the government's ultimate response to that report to change it, then I guess we will put whatever amendments are proposed before the parliament at that time.

**The Hon. NICK XENOPHON:** I have a question for the shadow attorney in relation to his amendment. As I understand it, 'indeterminate', in terms of giving a judge the authority to impose an indeterminate sentence, is something that has not been used in South Australia for a number of years. If the shadow attorney can enlighten me as to when such a sentence was imposed, that would be helpful. As I understand the policy position of the government, it is far better for it to have a position whereby you have determinate sentences to ensure that judges are more likely to use those sentences rather than simply having a position of indeterminate sentences that are not being used. If the shadow attorney can enlighten the committee as to when indeterminate sentences were last imposed in this and other jurisdictions in the commonwealth, that would be quite useful.

**The Hon. R.D. LAWSON:** I acknowledge, as the Attorney himself noted in his second reading explanation, that these sentences under section 22 have not been handed down by our courts for very many years.

**The Hon. Nick Xenophon:** Is it decades?

**The Hon. R.D. LAWSON:** I think the figure given by the Attorney was some 20 years. The last one he mentioned was a sentence in the Northern Territory, which had adopted the South Australian provisions out of our old Criminal Law Consolidation Act. The last reported case on habitual offenders was in 1968, a High Court decision, but the fact that that was the last reported case does not mean that it was the last such decision. The Attorney-General said that in 1982 the Federal Court, acting as the Northern Territory Court of Appeal, noted that no declaration had been made for at least 10 years before that time.

I acknowledge that the imposition of indeterminate sentences has fallen out of fashion, although I note that within the last 14 days in Queensland the court of appeal in that state has not accepted an argument that a provision relating to indeterminate sentences of sex offenders breached any constitutional guarantee because, as was previously mentioned in the second reading debate, there has been an argument as to whether or not indeterminate sentences are valid constitutionally, but the High Court has ruled that at common law indeterminate sentences are not allowed. However, the common law, as the honourable member would know, can be and has been modified by parliaments having considered the evidence and argument.

The minister did say that we are here dealing with the principle of dealing with one issue at a time. That was his explanation for why the government was not addressing the question of indeterminate sentences for sexual offenders. The principle of dealing with one thing at a time is not a principle at all. If we were dealing with this issue on any principle or basis the government would have done away with the scheme of sentences of indeterminate detention.

Division 3 of the Criminal Law Sentencing Act deals with two forms of sentences of indeterminate duration. The first is for habitual criminals and the second is for offenders incapable of controlling sexual instincts. The same principles apply. If indeterminate sentencing is wrong in principle it must apply to both categories. However, this government, because it sees it as politically popular, has chosen to deal with so-called habitual offenders on the one hand but on the other has not had the guts to face up to the issues that relate to offenders incapable of controlling sexual instincts, because in the current climate there is certainly a widespread feeling abroad that those incapable of controlling sexual instincts should not be released into the community.

**The Hon. P. HOLLOWAY:** I think the deputy leader has in a sense been supporting the argument that one could look at sexual offences a little differently. I remind the committee that there is currently an inquiry into the Parole Board and the question of the treatment of sex offenders is one of the matters being examined. It is also one of the issues considered by the Layton inquiry. In relation to the deputy leader's comments, the government does not regard the question of indeterminate sentences as unconstitutional. In our view the matter is not unconstitutional but, in relation to the sorts of offences we are dealing with here, we regard it as not being good practice or good law.

**The Hon. IAN GILFILLAN:** I feel obliged to share with the committee my view of indeterminate sentences and that is that they totally deny the concept that there is, in the expectation of our justice system, a punishment which is defined and that an offender has the right to expect to see a definition of the punishment that he or she is to experience as a consequence of offending. The concept of indeterminate sentencing, which may be naive thinking in my view, is either a quasi life sentence or borders on habeas corpus, where what may be a reasonable period of imprisonment for an offence is served and that person continues to be incarcerated under virtually no justice that I can accept.

The difference between that and sexual offenders is that it is again for me a misnomer to continue to call people offenders who have served the term of punishment for their offence but are retained basically for treatment for a condition in a different category. It may be that for accuracy of

description at least we ought to have a different category. There were conditions in which the criminally insane and people who were considered inadequate to living in the open community were constrained for that reason and perhaps for their own safety and good. We have opened up quite a sophisticated area of thinking and analysis, but clearly we are profoundly opposed to the concept of indeterminate sentencing.

**The Hon. R.D. LAWSON:** In response, indeterminate sentencing is most frequently seen where an offender is sentenced to a term of life imprisonment and no non-parole period is fixed. That is a common enough situation of an indeterminate sentence.

**The Hon. IAN GILFILLAN:** That is not the only one. Lawrie O'Shea just went on and on—well past his sentence time.

**The Hon. R.D. LAWSON:** I appreciate the honourable member's position of being against indeterminate sentencing, but to suggest that it is rare in our current system is quite wrong because where a life sentence is imposed and no non-parole period is fixed, the prisoner goes into a correctional institution not knowing when, if ever, he will be released.

Amendment negatived; clause passed.

Clause 5 passed.

Clause 6.

**The Hon. R.D. LAWSON:** My amendment on file is consequential which, in light of the loss of the earlier amendments, I do not propose to put.

Clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time.

**The PRESIDENT:** I put the question: that this bill do now pass.

The council divided on the question:

AYES (11)

| | |
|---|---|
| Dawkins, J. S. L. | Gazzola, J. |
| Holloway, P. (teller) | Lawson, R. D. |
| Lensink, J. M. A. | Redford, A. J. |
| Ridgway, D. W. | Sneath, R. K. |
| Stefani, J. F. | Xenophon, N. |
| Zollo, C. | |

NOES (4)

| | |
|---|---|
| Evans, A. L. | Gilfillan, I. (teller) |
| Kanck, S. M. | Reynolds, K. J. |

Majority of 7 for the ayes.

Bill thus passed.

## CRIMINAL INJURIES COMPENSATION

**The PRESIDENT:** I need to make an announcement. During the course of his contribution on the Criminal Injuries Compensation Act Regulations, the Hon. Mr Xenophon sought and was given leave to table two documents. On examination they proved to offend standing order 190, which says: 'No reference shall be made to any proceedings of a committee of the whole council or a select committee until such proceedings have been reported.' As these matters are under the consideration of the appropriate committee, I therefore have no alternative but to revoke leave in respect of those two documents.

## CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2870.)

**The Hon. P. HOLLOWAY (Attorney-General):** I thank honourable members for their contribution to the debate. I note that the Hon. Mr Gilfillan opposes the bill. The Hon. Mr Gilfillan suggests that the provisions of the bill take away the jury's power to speak on behalf of the community. Yet his opposition to the bill would impair parliament's willingness to listen to the community. This bill has been a significant part of the government's policy.

The Hon. Mr Gilfillan is of the opinion that he speaks for, and that his proposed amendments speak for, the public. But there is no evidence for that. Indeed, as he conceded during this speech, he has been appalled by the number of times he has heard people describing the steps they would take to defend themselves against home invasion. The government is of the firm opinion that this bill represents the will of the electorate.

The Hon. Mr Gilfillan also stated that he thought the title of the bill was misleading because it extends the law to the defence of others. The short answer to that is that the law of self-defence, as it exists now and has existed for centuries, has always extended to the defence of others. I draw his attention to section 15 subclause 3 of the existing act.

I confess to being puzzled by the contribution of the Hon. Mr Redford. He began by saying that it was the party position to support the passage of the bill with some amendments. He then proceeded to attack it with some ferocity on all fronts. Indeed, he went so far as to call it ludicrous. The government does not accept that description.

The Hon. Mr Redford spent a great deal of his speech commending a thorough reform of the whole law of self-defence to put it on an entirely subjective basis, founding the argument on the judgment of Murphy J in Viro. I do not intend at this point to deal with the objections to that course of action in detail. I think it is sufficient to make some brief general points instead.

1. The Hon. Mr Redford quotes extensively from Murphy J for this point of view. That is because he must. Not only was no other judge in favour of this point of view, no other judge has written a judgment supporting that point of view. He would be hard put to find any other legal authority at all in favour of that point of view. For good reason.

2. I quite agree with the Hon. Mr Redford that his preferred state of the law would be much more simple than what we have now and what is proposed by the bill. The law of self-defence has always been complicated. The court in Viro, including Murphy J, was dealing with the common law unaffected by statute. The court in Viro found the common law to be so complex as to be unworkable. But they did not adopt the position of Murphy J.

The South Australian courts found the 1991 South Australian statute unworkable in one respect only. There can be no doubt at all that this bill will make the law more complex by creating an exceptional defence. But simplicity is not always a good for its own sake. There is sometimes good reason for complexity.

The carving out of laws dealing with human behaviour is quite often complex because the behaviour is complex or there are competing social policy considerations. This has always been so in the law of self-defence. There is nothing

to be ashamed of in that. Complex problems often demand complex solutions. Simplicity for its own sake will simply drive the complexity underground into the unfathomable interstices of judicial reasoning. In this bill, the government seeks to take an area of complex social policy and confront it head on, trying so far as is possible, to set out the rules as explicitly as possible. There is nothing to be ashamed of in that. Indeed, I wholeheartedly agree with the Hon. Mr Lawson who said in his contribution:

> It is also simplistic and quite misleading to suggest that provisions of this kind can be made absolutely simple. That is not being patronising to ordinary citizens: it is a fact that this is a complex area of law. One has only to read the decisions of the cases and to read the academic analysis to appreciate the complexity of this area of the law.

Finally, I cannot accept the Hon. Mr Redford's assertion that the notion of excessive self-defence is incongruous. The fact is that a doctrine of excessive self-defence existed at common law between the decisions of the High Court in Howe (1958) and Zecevic (1987), and was abandoned by the High Court only because the court could not agree on a common formula by which to implement what the court thought to be a fair doctrine. It is also a fact that the 1991 parliamentary select committee on self-defence unanimously recommended reinstatement of the doctrine of excessive self-defence, and that was done by the resulting legislation.

It is difficult to do justice here to the lengthy and learned contribution of the Hon. Mr Lawson. I will content myself with a few observations on key points of his speech. First, the honourable member criticised the government because, in another place, it adopted a suggestion made by Mr Leader-Elliott and because in this place it proposes to make amendments suggested by others as a result of consultation. The honourable member says that this means that the bill is defective. I do not agree. I think that the criticism is unfair.

It would be a sorry day indeed if government did not act promptly on suggestions for change to proposed legislation before the house that would improve the legislation as a result of public consultation. The government should not be criticised for being amenable to suggestions for improvement to the implementation of its policy. The Hon. Mr Lawson asked a number of questions during the course of his speech. The answers are as follows. Firstly, so far as I am aware, the former attorney-general did not meet with the Law Society or the chair of the Criminal Law Committee. There has not been an opportunity to provide a detailed response to the quite lengthy submission made by the Law Society. However, members can rest assured that the comments made by the Law Society were carefully analysed, one by one, with a view to seeing whether the bill could be improved. As I have already noted, the government is more than willing to move amendments where it is satisfied that the bill can be improved. So far as I am aware, the Law Society has not provided any information in addition to its original response.

Secondly, the government circulated the bill for advice and comment to a number of people and organisations at various times, including to the Director of Public Prosecutions and the judiciary. The government received advice from the DPP and the judiciary (amongst others) and treated that advice as it does that from other eminent people. The comments were carefully analysed, one by one, with a view to seeing whether the bill could be improved. Some amendments were made as a result of these comments.

Thirdly, the government sought the advice of academic lawyers by consulting with the deans of the various law schools and with practising lawyers by consulting with the Law Society and the Bar Association. Again, the government treated that advice as it does that from other eminent people. The comments were carefully analysed, one by one, with a view to seeing whether the bill could be improved. The Hon. Mr Lawson noted in his speech that a significant amendment was made as a result of comments made by Mr Leader-Elliott.

Fourthly, the honourable member asked for statistical information. That information is as follows, and I should stress three preliminary points. First, on 25 December 1999, new legislation was proclaimed that replaced break and enter offences with a range of serious criminal trespass offences, including aggravated serious criminal trespass. After this changed, there was a transition when some matters were reported or charged as break and enter while others were dealt with as serious criminal trespass. This made it harder to compare accurately from one year to another during that transition.

In particular, there was no way to determine which of those matters recorded in 2000 and 2001 as break and enter under the old legislation had aggravating circumstances and would, under the new legislation, have been classified as aggravated serious criminal trespass. Secondly, in these statistics, aggravated serious criminal trespass is a subcategory of serious criminal trespass. Thirdly, data for 2002 have not been fully audited and the figures are, therefore, preliminary. With those comments, I provide answers to the questions.

Question 1: how many instances of serious criminal trespass were reported to the police? In the year 2000, there were 36 924; in 2001, 35 744; and in 2002, 33 765.

Question 2: the number of charges laid for serious criminal trespass. In 2000, there were 3 940; in 2001, 4 023; and in 2002, 5 692. A lot of extra money is going into the office of the Director of Public Prosecutions under this government.

Question 3: the number of findings of guilt for serious criminal trespass. These figures are for adult courts. In 2000, there were 551; in 2001, 610; and in 2002, 619.

Question 4: how many instances of aggravated serious criminal trespass were reported to the police? In 2000, there were 3 195; in 2001, 4 216; and in 2002, 4 599.

Question 5: the number of charges laid for aggravated serious criminal trespass. In 2000, there were 1 300; in 2001, 1 702; and in 2002, 1 807.

Question 6: the number of findings of convictions for aggravated serious criminal trespass (and this is the total for adult courts). In 2000, there were 42; in 2001, 103; and in 2002, 104.

I come now to the final question in this debate. It is a matter that was debated not only by the Hon. Mr Lawson but also the Hon. Mr Redford. It is the subject of amendments on file. It is the question of the onus of proof. The honourable members are of the opinion that the reversal of onus is unfair and unprecedented. The Hon. Mr Lawson has said that it makes this a tight and stingy defence. The government does not agree that the reversal of onus is unfair; nor does it think that the reversal of onus is unjustified. There are a number of reasons for this.

First, as the Hon. Mr Lawson acknowledged, this is an unprecedented and very special defence. It needs special and unprecedented care. Secondly, it is a mistake to see this defence as a defence standing on its own. It fits within the general law of self-defence. In the general law of self-defence

now, and in the future, the onus is on the prosecution to disprove the general defence beyond a reasonable doubt. That will not change. If a householder fails to meet the onus for the special defence, he or she can always fall back on the general defence. The special defence is not an all or nothing proposition.

Thirdly, most importantly of all, the placing of the onus on the prosecution to disprove the special defence beyond a reasonable doubt will be practically wrong and lead to grave difficulties and injustices in the criminal justice system. Since last night, I have sought advice from the Director of Public Prosecutions, and, since honourable members will vote on an amendment on this issue, I think it important that I read his advice into the record. This is a minute from the Director of Public Prosecutions to the Honourable the Attorney-General re the Criminal Law Consolidation (Self Defence) Amendment Bill 2003. It reads:

I refer to your letter of the 8th May, 2003.

Thank you for the opportunity to comment on the Criminal Law Consolidation (Self Defence) Amendment Bill 2003. In the past I have commented on earlier drafts of the bill and my comments have been provided to your policy advisers.

In this Minute I wish to raise with you concerns that I have regarding the onus of proof contained in s15C(2) of the Bill. I understand that the opposition is considering seeking an amendment to the Bill so as to shoulder the prosecution with the onus of proving beyond reasonable doubt that s15C(1) does not apply to the individual case. I do not consider this to be in the best interests of the administration of justice for two reasons:

a. As currently drafted the section permits the accused who is the victim of a home invasion to act disproportionately in response to a threat to person and property in certain circumstances.

In the ordinary case, those circumstances will all be subjective states of mind. Whilst objective circumstances may point to the lack of a genuine belief, in most home invasion scenarios where there are only two witnesses and one is the invader, the weight to be given to the objective factors will pale in significance against the perception of the circumstances as held by the accused (ie, the person who has used the force). In all likelihood this evidence will not become apparent until the trial. There will be, therefore, little opportunity for investigation and much will depend upon cross-examination. Whilst this is not unknown in the criminal law, where it generally occurs (e.g., provocation, duress) the subjective element of the defence is accompanied by an objective limb. This Bill does away with the objective requirement of proportionality. There is, therefore, no constraint on the behaviour of a person acting in defence of personal property in the home invasion situation. In those circumstances, there is no yardstick against which to measure behaviour, behaviour which the law deems acceptable according to the subjective perception of the person who engages in it. The result will be that it will be particularly difficult for the prosecution in the ordinary case to effectively test the evidence of the person seeking the protection of the defence.

Put another way, the defence is an excuse for otherwise criminal behaviour that operates in circumstances that are triggered by the subjective state of mind of the accused. The behaviour or response engaged in cannot be tested (a disproportionate response is permitted). The consequences of acting disproportionately in self-defence can be particularly grave. In the circumstances, to permit the authorities the opportunity to accurately test that state of mind the accused should bear the persuasive burden.

b. If the onus is upon the accused to establish the defence, it is more likely that the issues will be clearly defined prior to trial with the resultant saving of time and effort during the trial. Further, the likelihood of greater openness will permit negotiation where otherwise defence counsel will be more inclined to 'keep their powder dry' and allow for the timely and inexpensive resolution of appropriate matters prior to trial.

P.J.L. Rofe

Director of Public Prosecutions

I believe it is quite clear, given this advice, that the amendment changing the onus of proof cannot be supported. I commend the bill to honourable members.

The council divided on the second reading:

AYES (14)

| | |
|---|---|
| Dawkins, J. S. L. | Gazzola, J. |
| Holloway, P. (teller) | Lawson, R. D. |
| Lensink, J. M. A. | Redford, A. J. |
| Ridgway, D. W. | Roberts, T. G. |
| Schaefer, C. V. | Sneath, R. K. |
| Stefani, J. F. | Stephens, T. J. |
| Xenophon, N. | Zollo, C. |

NOES (4)

| | |
|---|---|
| Evans, A. L. | Gilfillan, I. (teller) |
| Kanck, S. M. | Reynolds, K. J. |

Majority of 10 for the ayes.

Second reading thus carried.

## STAMP DUTIES (RENTAL AND MORTGAGE DUTY) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

In the 2002-03 Budget, the rental duty base was broadened to include commercial hire purchase arrangements. The anticipated revenue gain from broadening the rental duty base has not been achieved because of a shift in financing transactions from commercial hire purchase to chattel mortgages which attract a lower duty rate of 35 cents per $100 on the sum secured compared to a 1.8 per cent rate on commercial hire purchase arrangements.

To address this tax-induced shift in financing arrangements from commercial hire purchase to chattel mortgages, rental and mortgage duty rates will be amended.

The stamp duty rate on commercial hire purchase and other equipment finance arrangements for terms of not less than 9 months will be cut from 1.8 per cent to 0.75 per cent. Standard rental arrangements will continue to be taxed at a rate of 1.8 per cent. At the same time, the rate of duty applying to mortgages except those solely relating to the purchase or construction of a home for owner occupation will increase from 35 cents per $100 to 45 cents per $100. Residential mortgages for owner occupation will continue to attract a rate of duty of 35 cents per $100.

The reduction in the rental duty rate for commercial hire purchase from 1.8 per cent to 0.75 per cent will bring South Australia into line with New South Wales, Victoria, the ACT and Western Australia (proposed) where a stamp duty rate of 0.75 per cent applies to commercial hire purchase.

The base broadening combined with a rate reduction for commercial hire purchase is also consistent with industry representations for stamp duty reform in this area. The Australian Finance Conference and the Australian Equipment Lessors Association have lobbied for many years for the inclusion of commercial hire purchase in the rental duty base at a lower rate of duty than the standard rental duty rate.

The move to differential mortgage duty rates for home mortgages for owner occupation, on the one hand, which will continue to be taxed at a rate of 35 cents per $100 and all other mortgages where the rate of duty will increase to 45 cents per $100 will be combined with the introduction of a proportional rate structure above a sum secured threshold of $6 000.

At present, a two tier mortgage duty structure applies above a $4 000 threshold.

Interstate precedent already exists for a dual mortgage duty rate structure. Western Australia has for some years applied a lower mortgage duty rate to home mortgages for owner occupation.

The net full year revenue impact of the original rental duty measure that was introduced in the 2002-03 Budget was $7.5 million compared to a net revenue impact of $4.5 million from the amended rental and mortgage duty measures to be introduced in the 2003-04 Budget, resulting in a full year revenue loss of $3.0 million.

These changes in duty arrangements will apply from 1 October 2003.

I commend the bill to the house.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

This clause provides that the measure will come into operation on 1 October 2003.

*Clause 3: Amendment provisions*

This clause is formal.

*Clause 4: Amendment of section 31B—Interpretation*

Clause 4 inserts a number of new definitions into section 31B of the *Stamp Duties Act 1923*. The new definition of 'dutiable rental business' describes the forms of rental business that are dutiable under the rental duty provisions of the Act. 'Equipment financing arrangement' is defined as a hire purchase agreement or a contractual bailment (already defined in section 31B) for a term of not less than nine months under which the final payment is not required to be made earlier than eight months after the agreement is entered into. The definition of 'registered person' is removed and replaced by a definition of 'registered', which means registered under section 31E.

*Clause 5: Substitution of sections 31C and 31D*

The existing sections 31C and 31D are deleted and replaced with two new sections.

*31C.Jurisdictional nexus*

The rental duty provisions apply to a contractual bailment if the goods are, or are to be, used solely or predominantly in South Australia or the goods are to be delivered to the bailee in South Australia *and* are to be used outside Australia or are not to be used solely in any one Australian State and it is not possible to determine which State is to be the jurisdiction of predominant use.

If a motor vehicle is taken on hire under an equipment financing arrangement, the State in which the vehicle is registered will be taken to be the jurisdiction of predominant use.

*31D.Obligation to be registered*

Under section 31D, a person who carries on rental business consisting of or involving dutiable rental business must be registered irrespective of where the dutiable rental business is transacted and whether or not the person is resident, or has a place of business within, the State. The maximum penalty for failure to register is a fine of $10 000.

*Clause 6: Substitution of section 31F*

*31F.Lodgement of statement and payment of duty*

The existing section 31F is replaced by a new section that requires a person who is, or ought to be, registered to lodge a statement with the Commissioner each month. The statement must set out the total amount received during the previous month in respect of dutiable rental business. The statement must also set out the amount representing the component referable to equipment financing and the amount representing the component referable to other rental business. The person is required to pay duty equivalent to .75 per cent of the equipment financing component and, if the general rental business component exceeds $6 000, 1.8 per cent of the excess. (A distinction is made between equipment financing arrangements entered into before 1 October 2003 and those entered into on or after that date. A person is required to pay duty equivalent to 1.8 per cent of the component referable to an equipment financing arrangement entered into before 1 October 2003.)

The amount to be disclosed by the person in the statement required under section 31F(1) is to include amounts received for services incidental or related to the business but is not to include amounts received to reimburse, offset or defray liability to GST. An exception applies if an equipment financing arrangement provides that the financier is to be responsible for servicing the goods. In these circumstances, the cost of servicing, if separately charged, need not be disclosed and is not liable to duty. If the cost of servicing is not separately charged, a proportion of the consideration received by the financier that the Commissioner considers properly referable to servicing the goods need not be disclosed and is not liable to duty.

A person may apply in the approved form for permission to lodge statements and pay duty on an annual basis. The Commissioner may permit this if satisfied that the total amount on which duty is to be calculated for the ensuing 12 months is likely to be less than $120 000.

*Clause 7: Amendment of section 31I—Matter not to be included in statement*

This clause amends section 31I by replacing paragraph *(c)* with a new paragraph that is substantially the same in effect as the existing paragraph but is clearer and replaces the reference to 'not less than 1.8 per cent' with 'not less than would be applicable under this Act'. This amendment is necessary because there are now two different rates of duty payable under the Act in respect of rental duty.

Paragraph *(h)* of subsection 31I is no longer required because of the insertion of the new jurisdictional nexus provision (section 31C) and is therefore removed. The amendments to subsections (1a), (1b) and (1c) are consequential on other changes made to the Act.

*Clause 8: Insertion of section 31M*

*31M. Ascertainment and disclosure of place of use of goods*

A person who carries on a rental business may rely on a statement of a person who hires goods as to where the goods will be solely or predominantly used (or, in the case of a motor vehicle, where the vehicle will be registered) unless the person knows the statement to be false.

If the Commissioner finds that insufficient duty has been paid, the failure to pay the correct amount of duty is not a tax default under the *Taxation Administration Act 1996* if the failure results from reliance on information on which the person liable for the duty is entitled to rely so long as the correct amount of duty is paid within 3 months after the issue of a notice of assessment of the duty by the Commissioner.

A person who falsely represents that the goods the person takes, or proposes to take, on hire will be used solely or predominantly outside South Australia is guilty of an offence. The maximum penalty for this offence is a fine of $10 000.

*Clause 9: Repeal of section 31N*

The proposed repeal of section 31N results from the introduction of new sections 31C and 31D, under which a person who carries on rental business consisting of dutiable rental business (that is, rental business to which the Division applies) must be registered. Section 31N, which allows the Commissioner to enter into an arrangement with a person who carries on rental business in the State but is not required to be registered, is redundant because all persons who carry on dutiable rental business in the State are now required to be registered.

*Clause 10: Amendment of section 76—Interpretation*

This clause inserts two new definitions. Sections 76 falls within the part of the Act dealing with mortgages. 'Home' is defined to mean any residential premises. A mortgage is a 'home mortgage' if the mortgagor is a natural person and the whole of the amount secured by the mortgage has been, is being or is to be used for one of the three purposes described in the definition.

These purposes are:

1. The purchase of land on which a home that the mortgagor intends to occupy as his or her sole or principal place of residence has been, or is to be, built.
2. Building, or making additions or improvements to, a home that the mortgagor occupies or intends to occupy as his or her sole or principal place of residence.
3. Repayment of a loan previously taken out for one or more of the above purposes.

However, if the amount secured by the mortgage is to be used for some other purpose, the mortgage is not a home mortgage.

This clause also amends the definition of 'mortgage' by inserting two notes that clarify the meaning of the definition. In particular, it is now made clear that 'mortgage' includes an agreement that gives rise to a presumptive mortgage under section 10(3) of the *Consumer Credit (South Australia) Code*.

*Clause 11: Amendment of section 79—Mortgage securing future and contingent liabilities*

The amendment proposed to be made by this clause to section 79 is consequential on the introduction of a dual rate of mortgage duty.

*Clause 12—Amendment of section 81A—Duty may be denoted in certain cases by adhesive stamps*

This clause amends section 81A of the Act by substituting '$6 000' for the current reference to '$4 000'. This amendment is consequential on the amendment made to Schedule 2 by clause 13.

*Clause 13: Amendment of Schedule 2*

The relevant item of Schedule 2 is amended as a consequence of the introduction of new rates of duty.

*Schedule—Transitional provision*

The transitional provision clarifies the operation of the amendments made by this Act to contracts, agreements or arrangements entered into before 1 October 2003 (the day on which the Act will come into operation).

*An amount received under or in respect of a contract, agreement or arrangement entered into before 1 October 2003 is required to be included in a statement to be lodged under section 31F of the Stamp* Duties Act 1923 only if it was required to be brought into account for the calculation of rental duty under the relevant provisions of that Act as in force immediately before 1 October 2003.

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

## CODE OF CONDUCT

The House of Assembly passed the following resolution to which it desired the concurrence of the Legislative Council:

That it is the opinion of this house that a joint committee be appointed to inquire into and report no later than 1 October 2003, upon the adoption of a code of conduct for all members of parliament, and in doing so consider:

(a) a code of conduct for all members of parliament, addressing—

(i) the integrity of parliament;
(ii) the primacy of the public interest over the furthering of private interests;
(iii) disclosure of interest;
(iv) conflict of interest;
(v) independence of action (including bribery, gifts and personal benefits, sponsored travel/accommodation, paid advocacy);
(vi) use of entitlements and public resources;
(vii) honesty to parliament and the public;
(viii) proper relations with ministers and the Public Service;
(ix) confidentiality of information;
(x) appropriate use of information and inside information;
(xi) government contracts; and
(xii) duties as a member of parliament;

(b) a procedure for enforcement of the code by parliament that ensures effective investigation and adjudication of complaints, is impartially administered and protects members who are the subject of an allegation in a similar way to a court or professional disciplinary body;

(c) an appropriate method by which parliament should adopt a code (for example, by legislation, resolution, standing order or any other method), taking into consideration how best to engender knowledge and understanding of it by the public as well as by members;

(d) the relationship between the code and statutory requirements for disclosure of members' financial interests; and

(e) an introductory and continuing ethical and constitutional education program for members, having regard to—

(i) the discussion paper and draft code of conduct for members of parliament prepared by the Legislative Review Committee in 1996;
(ii) standards of conduct required of public servants by the Public Sector Management Act 1995;
(iii) the way other jurisdictions (including the United Kingdom and Canada) have developed codes of conduct and draft codes of conduct for members of parliament, enforcement procedures, advisory services for members, introductory and continuing legal education programs and informing the public about the code and its enforcement; and
(iv) written submissions from members of the public and from persons with expertise in the areas under report:

and in the event of a joint committee being appointed, that the House of Assembly be represented on the committee by three members, of whom two shall form a quorum of assembly members necessary to be present at all sittings of the committee; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

## WATERWORKS (SAVE THE RIVER MURRAY LEVY) AMENDMENT BILL

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

## ADJOURNMENT

At 10.05 p.m. the council adjourned until Wednesday 16 July at 2.15 p.m.