LEGISLATIVE COUNCIL

Thursday 17 July 2003

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11 a.m. and read prayers.

ASSENT TO BILLS

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

Nurses (Nurses Board Vacancies) Amendment,

Statutes Amendment (Notification of Superannuation Entitlements).

STANDING ORDERS SUSPENSION

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

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

Motion carried.

APPROPRIATION BILL 2003

Adjourned debate on second reading.

(Continued from 16 July. Page 2931.)

The Hon. KATE REYNOLDS: My second reading contribution on this bill will express not just the Australian Democrats' disappointment but our frustration with Labor's 2003-04 state budget. As a long-time campaigner on social justice issues, it is obvious to me that the areas of social welfare, education, disability and housing were very poorly done by in this budget, with very little funding allocated to those who need it most. Once again, schools have missed out on gaining much-needed indigenous teachers and school services officers, and there were no new funds to employ part-time youth workers in state schools. Neither did schools receive the $2 million required for alternative education programs in metropolitan and rural areas for young people at risk.

The allocation of funds for some special programs for only the life of the government shows a callous disregard for students, teachers and school communities. Some years ago I was appointed by the education minister in the former government to a joint schools development review committee to plan a desperately needed upgrade of teaching and learning facilities at my local schools. The experience has left me thoroughly disillusioned with the department's process of allocating funds for capital works in our state schools. School councils—and in the case of Birdwood Primary and Birdwood High, 18 feeder schools and preschools—enter these planning processes in good faith but, unfortunately, can expect to have their plans left on the drawing board—if they are lucky enough to get that far—for years at best and decades at worst.

The decision-making processes for the allocation of capital works funds are neither open nor transparent and often result in competition and division amongst school communities desperate to ensure that they have at a minimum safe and at best inspiring environments for teaching and learning. Along the way, many opportunities to value add through voluntary effort and partnerships with local government will be lost. I share the frustration of those parents whose children will probably be rearing their own children before the commencement of much-needed capital works in their schools. The government also, once again, failed to allocate realistic funding for TAFE institutes or to provide adequate funds to address issues of long-term financial stability, management and performance as identified by the Kirby report and, instead, will just reduce current debt.

TAFE institutes are still expected to meet growing demand with funding that is less than the national average per student. The government's refusal to reinstate the rent relief scheme and ease the burden a little on low income families is another opportunity missed by this government. We welcome the allocation of $12 million for services to address homelessness but note with disappointment that only half the new homes needed for low income earners will be purchased and that funding for the renovation and upgrade of publicly owned homes has been cut by 6 per cent.

The government also, again, refused to provide operational funding for the peak body Homelessness SA to continue its work in addressing the causes of homelessness. To our embarrassment, South Australia remains the only state without an independent non-government tenants advice and advocacy service available to all renters, despite the fact that it collects $50 million in bond moneys from tenants. Worse, state funding for the crisis accommodation programs has been cut by 25 per cent at a time when we know that more and more people are living in precarious or inappropriate accommodation.

In relation to disability services, we welcome additional funds for accommodation for people with a disability but we share the anger of the deaf community and the frustration of the state government that the free Auslan interpreting service was forced to close on 30 June, due to a cut in federal government funding. And much has already been said about the continuing debacle of funding for the Cora Barclay Centre. We are also disappointed that the state government accepts growing waiting lists for essential equipment such as wheelchairs.

Blind people are still unable to access the South Australian transport subsidy scheme, despite the fact that attempting to travel on public transport, assuming that any is available in their area, is often fraught with danger. There are still thousands of young people with disabilities hidden out of the government's sight and mind in nursing homes, and thousands of young people with a disability are stuck at home who want to work but cannot access a properly supported job.

An amount of $8.3 million over four years for support services for children and young people with complex needs is nowhere near enough to deal with the range of problems that still exist and will worsen in future, whilst the wellbeing of children and families languishes at the bottom of the government's list of priorities. The Youth Affairs Council of South Australia noted in its 2003-04 state budget submission that more than 70 per cent of the 6 000 trainees inducted since 1994 have gone on to full-time public or private sector employment and recommended an allocation of an additional 500 places to the government's youth traineeship program. A funding cut of 20 per cent to this program cannot be justified after 10 years worth of a higher than the national average youth unemployment rate in this state.

In recent months we have seen unprecedented action by social workers from the Department of Family and Youth Services and I note that that situation is still not fixed as I speak. Following the government's attempts to downplay the

acute understaffing of FAYS offices, it would appear that this government is happy for children and families in crises to wait for essential services, regardless of the consequences. The Premier, when in opposition, promised that a Labor government would 'better coordinate the resources and service responses to child maltreatment by welfare, health and disability sectors'. This budget forces us to assume that this was another empty promise.

The Democrats acknowledge that this government inherited a department, FAYS (Family and Youth Services), that had been in a state of continual restructure for years and was ready to topple over under the sledgehammer of the Liberal government, but Labor's prevaricating has, understandably, left FAYS with little vision, energy and enthusiasm for the work ahead. Social workers and financial councillors are professional people who know a lack of commitment when they see it. Labor's steadfast refusal to commit to increased staff numbers or time frames for getting more social workers into FAYS offices is much worse. It shows a blatant disregard for the rights of vulnerable people and professional standards and highlights once again that children and young people are still at the bottom of the government's list of priorities.

We welcome the allocation of the home visiting program for all new mothers, but the child and youth health budget was not in such a good position that it could easily stand a reallocation of funds for this program, and we fear that some other waiting list has just increased proportionately. The continual denial of realistic funding for essential services for children and young people sends a clear message to the community that having lengthy reports on its web site is far more important to this government than sustained improvement in services for children at risk, families in distress and overloaded workers.

Moving to the other end of the age spectrum, the state budget was most revealing. It contained no service growth funds for the HACC (Home and Community Care) program in South Australia. This means that not only are the extra taxes older South Australians are paying not being used to fund their needs but also that the state government is refusing an offer of $3.5 million from the commonwealth. Over the next three years that means a refusal of $10.5 million and a total of almost $17 million less in services to people in need of HACC services.

These growth funds offered by the commonwealth cover the extra numbers of older people in need of care and support. Those people will not go away and their needs will not diminish, so this decision means the government is actually cutting funds to the HACC program. As a consequence, more older South Australians can expect over the next three years to enter a hospital or nursing home when they should be cared for in the comfort and safety of their own home. Those who do manage to stay at home will have a longer wait for dental care following the government's cut of $2 million from the South Australian Dental Service. Any talk of primary and preventative health care is a joke when these essential services for older citizens are reduced by government.

In relation to local government, the budget has not tackled the underlying mismatch between council responsibilities and resources, so South Australian councils will continue to get the lowest per capita state grants of any state or territory in Australia. There will be a gap of $100 million in the next year in what councils should be spending on maintenance and renewal of community infrastructure such as roads, bridges, drains and recreational facilities against what they will be able to spend.

On a personal note, I express my total frustration with both this government and the previous government in relation to decisions about funding for the Barossa Area Health Service. This is a sorry tale that parallels the misfortunes of the Birdwood schools. As the Democrat candidate in the last state election for the seat of Schubert, I challenged the then Liberal government to put a single dollar on the table for a much needed new hospital for the Barossa region. Despite promise after promise and announcement after announcement, not a single red cent was ever made available. This is another example of communities entering in good faith into planning and consultation with government agencies when the need for new infrastructure is screamingly obvious. The board and staff of the Barossa Area Health Service have worked above and beyond the call of duty to manage literally crumbling buildings on two sites while they endured under the health minister of the former Liberal government a series of empty promises about a single new site at Nuriootpa.

The community also endured, with some pain I am told, numerous page 3 photographs in the local media of the member for Schubert reclining on a hospital bed grinning with pleasure at the latest announcement by his government and month after month the community was told the Democrats were scaremongering, but still not a single red cent appeared. In opposition Labor acknowledged the need for a new hospital, but now it too seems to be travelling down the 'more reports please' path. Thousands of dollars continue to be wasted by the Rann government on invisible band-aid measures while it procrastinates, as did the former Liberal government. Perhaps this is the price the community pays for being in a safe Liberal seat under both Labor and Liberal governments. But for a government that is so enchanted by so-called prudent economic management, it makes no sense to continue to spend hundreds of thousands of dollars, and perhaps ultimately millions, on patching up buildings that will only ever be substandard. The land is owned by the government and $12 million will buy the much promised and independently justified brand new facility to meet the needs of one of the fastest growing regions in the state.

The South Australian Council of Social Service told its members that the state Treasury has 'wedded itself firmly to the credit ratings agencies'. SACOSS has highlighted that in pursuit of a AAA rating the Treasurer is using a sizeable supply of the $312 million surplus to pay off debt, which is already at historically low levels. The Democrats support the view of SACOSS that poor people are wearing the cost of the Treasurer's obsession with debt reduction. This new tough government should get tough on the causes of poverty and community hardship instead of getting tough on vulnerable South Australians. The $312 million surplus is more than three times the budgeted figure of $92 million. The Democrats believe that some of this shiny new surplus should have been spent in the crucial areas of social justice and improving those services to the community that were persistently ignored under a Liberal government.

The meaning of the terms 'preventative' and 'early intervention', which figure so largely in the government rhetoric, are blatantly obvious. They mean dealing with the situation before it becomes a major issue and at significant cost to the community and state. For government this means spending money to strengthen the capacity of vulnerable people, families and communities to deal with issues before those issues become costly or insoluble problems for us all.

We needed a genuine and serious approach to dealing with inequality and poverty and action that is aimed at reversing hardship for vulnerable people and families. What we got was a serious disappointment. The Rann Labor government has chosen to ignore most of the expert advice of the social welfare sector. It could have afforded to be bolder than this. In fact, it cannot afford not to do otherwise.

PARLIAMENTARY REMUNERATION (POWERS OF REMUNERATION TRIBUNAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 July. Page 2938.)

The Hon. R.I. LUCAS (Leader of the Opposition): I thank the Hon. Mr Gazzola for his contribution to the debate. My colleagues believe that, as a former treasurer, I am an appropriate person to put the Liberal party room's view on this issue, and I happily wear that mantle, having been prepared, for the last four years of the Liberal government, to engage in public discussion about the remuneration of members of parliament.

At the outset, I make it clear that, despite the title of the bill—which as its mover, the Hon. Bob Such, the member for Fisher, said was recommended by parliamentary counsel—it has nothing to do with making changes to the salary or superannuation arrangements of members of parliament. So, whilst the bill's title and the fact that it makes related amendments to the Parliamentary Superannuation Act might lead people to believe otherwise, the member for Fisher has made it quite clear, and I repeat that advice, that this does not make changes to the current arrangements in relation to salary and remuneration. This bill looks at issues in relation to non-monetary benefits as they apply for members, and that is its purpose.

The bill was introduced by the Independent member for Fisher in another place. Whilst I was not part of the debate, I understand it received broad support from the lower house. In particular the government party room and the Liberal Party room have supported the principles inherent in the legislation. The member for Fisher points out that the genesis for the bill was his appearance before the independent Remuneration Tribunal. I interpose at this stage, as a someone who has been a member of parliament for 20 years, to advise that the Remuneration Tribunal developed as a result of great concern that governments or parliaments themselves were setting the remuneration benefits for members of parliament. Ultimately, it was felt that an independent tribunal would be the more appropriate mechanism to consider those sorts of vexed issues. That proposal was developed and supported by parliament, and that continues to be the case.

The member for Fisher appeared before the independent parliamentary Remuneration Tribunal earlier this year, and he raised the issue of non-monetary benefits, as they are termed in the legislation—vehicles and equipment—and raised some concerns that he and other members have had over a number of years. I was not there, but the independent tribunal evidently indicated that it did not have the power to consider these issues and make an independent judgment.

According to the member for Fisher, he also raised the issue of salary sacrifice, and the independent Remuneration Tribunal took legal advice and indicated that it could not make a determination in relation to salary sacrifice. If I put on my hat as a former treasurer, I note that salary sacrifice arrangements have been instituted almost comprehensively across the public sector over the last five years through various enterprise agreements, so probably the only living persons paid in some way by the taxpayers who do not have access to salary sacrifice arrangements are members of parliament. I am sure that there are other groups but, broadly, public servants and most of the major occupational groups paid for by the public purse have, over the last few years, had access to salary sacrifice arrangements. Evidently, the member for Fisher raised this issue again with the tribunal, and it said that it did not have the authority make a determination on that issue.

That is the genesis for the bill before the parliament, as outlined by the member for Fisher. In the broad, he is saying that the Remuneration Tribunal, which makes decisions in relation to the salary and allowances as they apply to members, ought to be given the capacity to make judgments in the broad area that the member for Fisher has described as non-monetary benefits, that is, vehicles, equipment, and the like. The member for Fisher's contribution made it quite clear that he argued that this would be a determination for the tribunal in accordance with the legislation that may well be passed by the parliament in its consideration.

The member for Fisher outlined that he looked at circumstances as they apply in other jurisdictions and, in doing so, he has come forward with what he himself described as a sound and sensible proposition. The member for Fisher has obviously been to the Treasurer's school of modesty. The honourable member indicated that the legislation will apply not just to motor vehicles but to articles, equipment or service to members, and that the determinations will be for the tribunal. The tribunal will have the power to specify terms and conditions that might apply to any provision of such articles, vehicles, equipment or services.

The bill will give the tribunal the authority to determine contributions that might be payable by a member of parliament towards the cost of providing articles, motor vehicles, equipment or services. In amendments to new section 4A(2), the bill seeks to ensure that, if the tribunal determines that a contribution is payable by a member towards the cost of providing an article, motor vehicle, equipment or service, the member of parliament may, in accordance with the determination, choose to pay the contribution by any of the following three means or a combination of the following three means.

Firstly, it seeks to offer the option of salary sacrifice and I have offered my comments in relation to that, that it is an option already available broadly to most of the public sector. The second option is by way of a reduction in the allowances or expenses that would otherwise be payable to the member. I think that is relatively self-explanatory. The only question that might be determined is exactly which allowances it concerns. On my layperson's reading, it probably refers to the electorate allowance and perhaps ministerial expenses allowances that are payable to members. Legal advice might be required in relation to the issue of our global allowances. I do not think that they are payable to the member. In the House of Assembly's case, they are offset accounts against the Treasury, and in the Legislative Council it is also an offset account, so no payment is made to the member. The third option is by direct payment by the member to the Treasurer. As I said, new subsection (2) makes it clear that salary sacrifice, reduction in allowances, or direct payment by the member, or any combination of those, may be used as a means of offsetting whatever the cost might be.

New subsection (3) makes it clear, except as provided by subsection (2), which of course does refer to a reduction in allowances, that a determination of the tribunal must not provide for a reduction in electoral allowances and other allowances and expenses. New subsection (4) makes it clear that, in making a determination, the tribunal must have regard to any non-monetary benefits provided under the law of the commonwealth to senators and members of the House of Representatives, and to the terms and conditions under which such benefits are provided. Again, as a non lawyer, I note that it says 'must have regard to'. I would not interpret that as meaning 'must slavishly follow'. That is something that the tribunal would have to have regard to.

New subsection (5) makes it clear that a determination of the tribunal with respect to the provision of motor vehicles must specify the vehicle or range of motor vehicles that would constitute the standard motor vehicle to be provided. I think that is there for obvious reasons, in terms of the type of car that might be ultimately permitted, and as I understand it there is a similar provision in other states. Clearly, such an arrangement would not be provided to allow a member to purchase a Lamborghini, a Ferrari or whatever. We are talking about a standard motor vehicle or range of motor vehicles. New subsection (6) envisages that a member of parliament, if they wanted something other then a standard motor vehicle, would have to provide the extra cost involved in the provision of such a vehicle. My understanding is that should a member do that—

The Hon. Nick Xenophon: What about Noddy cars?

The Hon. R.I. LUCAS: Well, I understand that the Hon. Bob Such has been quite explicit about it. I believe he has actually argued to some members that electric fuel cars and a variety of other options would all be permissible to those who might be so inclined. I think he might have been targeting his comments to the member of the Greens in another place, or perhaps even the Australian Democrats—

The Hon. Kate Reynolds: Bicycles?

The Hon. R.I. LUCAS: Bicycles—yes, I think that might have been targeted in light of the position of former justice Millhouse, who had a preference for bicycles. The clear point there as I understand it, again as a non lawyer, is that, should a member pay an additional cost, when that member retires or leaves parliament that extra cost would be lost, because the vehicle remains the property of the crown. It would not be something that the member could say, 'Well I put some money into this, so I am entitled to take the car with me'.

There are transitional provisions which will ensure that, if the bill passes, the tribunal would within at least two months of the commencement of the act convene a sitting of the tribunal for the purpose of reviewing any determination the tribunal has enforced under the remuneration act. I think that is a fair endeavour at summarising the bill that is currently before the council. The other important point is that some members have indicated that, should this option be provided, they would not want to take it up, and the legislation moved by the member for Fisher makes it quite explicit that this would be at the option of members. So if a member, for example, is quite satisfied with the current allowances and does not want to make any change, there is nothing in this which would require a member to do anything other than continue as they currently are. It remains an option. I know some members in this chamber have expressed the view to other members that they are quite happy with the current arrangements and do not want to see a change. So it would appear, from what I have heard, that should this determination be made—and that is a big should, because it has to go through the independent tribunal—not all members would avail themselves of this option.

My final comment is that certainly the independent tribunal has demonstrated the fact that it is independent on more that one occasion over the last few years. There have been a number of representations to the tribunal in relation to the consideration of a number of matters of increasing allowances and, in the broad, when considering electorate allowances, I would have thought that, for the last four or five years, they have either not increased them at all or have increased them by the CPI or less. I do not think anybody could point to the current members of the tribunal and indicate that they have done anything other than demonstrate their independence in relation to the issues that were previously before them. On a number of occasions they have rejected propositions put by members of parliament or parties on a variety of issues. I will not go into all of those.

Essentially, what the member for Fisher is indicating is that this is an independent tribunal and, as I said, the current members, known to members, would be responsible in the first instance for making some determinations. I know that, as with all tribunals, membership changes over the years; people come and go. That would be as it was with the former government: there were some membership changes as people moved on but, certainly, as I have just indicated, the current members have demonstrated their independence in relation to these issues.

I will now conclude my remarks, my colleagues having asked me to speak on their behalf and put the party position. It is a position which has been supported, I am told, by the government party room and also by the Liberal parliamentary party room. On their behalf, and with their support, I indicate support for the second reading.

The Hon. NICK XENOPHON: At the outset I wish to make it clear that I am very happy with the three-cylinder car that I drive. I think it has an engine displacement of about 986 ccs. I am sure there are members with motorbikes with a bigger engine displacement than that.

The Hon. J. Gazzola interjecting:

The Hon. NICK XENOPHON: My vehicle is roadworthy, in response to the Hon. Mr Gazzola, very roadworthy. At the outset I do commend the Leader of the Opposition for setting out quite fairly, I think, the position in relation to these issues. I want to make it clear that I believe that MPs should be allowed to get on with their jobs, to service the electorate and to perform their functions effectively and that is my position. I have been on the record as stating, in relation to travel allowances, that I believe there is significant benefit to be gained from them, when properly used, if MPs come back to this place with new ideas, and informed and educated. My criticism of the scheme has been of its accountability and transparency in terms of the availability of reports and their easy access to members of the public. I want to make it clear that MPs ought to have tools and resources comparable with those available to the rest of the community and the public sector and, indeed, comparable with reasonable standards in the private sector, in terms of performing their functions.

The one benefit that I do have an issue with, and I have said it on the record, is that parliamentary superannuation at a state level, and more so at the federal level, is out of kilter with benefits that other members of the community can get in comparison with the benefits of MPs. It would be fair to

say that if what this bill proposes to do—and I will have some questions to ask the mover of the bill, the government and even the Leader of the Opposition, if he can inform us at the committee stage, given his role as the former treasurer—is bring MPs in line with public servants, then I think that ought to be made clear.

The question I have is: will this bill, if passed—and I acknowledge that the Remuneration Tribunal is an independent tribunal—and if the rules are changed, mean that the allocation of vehicles to members be revenue neutral if there is an offset? I do not know the answer to that question. I would like to think that it could be answered, so that we can at least tell the public that, in terms of the process, it will be revenue neutral.

There are other issues that I believe also ought to be addressed, such as whether the vehicle reverts back to the state. I note that clause 5 refers to a cessation of entitlement to remuneration. As I understand it, there is no longer an entitlement, but is there a mechanism for the purchase of a vehicle at a reasonable value to ensure that taxpayers are receiving a deal that is fair all around? Are the vehicles state plated or private plated? Is there a ceiling with respect to the amount? I presume, from the contribution of the Leader of the Opposition, and from my reading of the Hon. Bob Such's contribution, that there must be a standard vehicle referred to, so that we will not get the Maseratis or the Ferraris; presumably, there will be a benchmark of a standard family size vehicle.

They are important issues, and I think that we have an obligation to let the public know that the criteria will be transparent, and that it will not be out of kilter with general benefits. I am concerned that it be revenue neutral at the end of the day, so that a member can decide whether to go down that path. For country members, in particular, that is an area of concern, in that they would run their vehicles into the ground, given their electoral obligations. I note that this bill has bipartisan support. It is heart-warming to see that there are some bills that have bipartisan support. If only this occurred with respect to other pieces of legislation.

The Hon. R.I. Lucas: There will be four or five today, including the Appropriation Bill and the stamp duties bill.

The Hon. NICK XENOPHON: That is right. The Leader of the Opposition's summary of the bill, I think, is quite fair. I am concerned that it be revenue neutral at the end of the day and that there be clear guidelines. As I understand it, having heard the debate, and having read the Hon. Bob Such's contribution, this referral is providing benefits that do not go beyond benefits that are provided to members of the public service and that, to me, is reassuring. But I do have those questions that I put on notice, in a sense, as to whether this bill, if passed, ultimately will be revenue neutral in terms of the way in which it would function. I look forward to those matters being addressed during the committee stage.

The Hon. SANDRA KANCK: It is on the understanding that this measure will be revenue neutral—that the taxpayer will not be asked to provide any more money to us—that I indicate Democrat support for this move. The bill was introduced into the House of Assembly yesterday and passed all stages. Someone was kind enough to photocopy the second reading debate from the House of Assembly and distribute it within this chamber about 20 minutes ago (so, that is when I read that debate), and I obtained a copy of the bill five minutes ago. I am never really happy to deal with any legislation in this sort of time frame and, therefore, I am dependent on the reassurances that have been given that this will not cost the taxpayer any more—

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: I was going to request that we do not move to the committee stage immediately, so that those of us who have a few reservations might be able to have this matter clarified. Assuming that the reassurances we have been given are correct, I would indicate that, from my perspective, a motor vehicle would not be a high priority for me. But I note that, in new section 4A, under the heading 'Non-monetary benefits', it provides:

> (a) provide for the provision (at the option of a member) of any article, motor vehicle, equipment or service to members. . .

As I read that, one would put in an application to the tribunal and, if the tribunal, in its wisdom, decides that it is appropriate, members can, through using existing allowances, salary sacrifice, or whatever, obtain one of these benefits. From that perspective, I would suggest that, if there is anything I might be looking at, it would probably be, if it was possible, to use that salary sacrifice or the use of other allowances to employ more staff. I would see that as being a benefit not only to me but also to the economy at large, if we employed more people. At this point, without total clarification, but an understanding that this measure will be revenue neutral, I indicate Democrat support for the second reading.

The Hon. J.F. STEFANI: I was not going to speak on this bill, but I feel that it is important for me to make a brief contribution. I have some concerns that the perception this legislation will create in the minds of our constituents and the people of South Australia is that members of parliament are helping themselves to another benefit. I qualify that because it is usually the perception that becomes the truth to the believer. Once the perception is created, it is most difficult for it to be changed.

As I understand this legislation, it is a measure that will allow the remuneration tribunal to make an assessment, in respect of the allowance (it is not salary sacrifice; it is an allowance sacrifice) that is presently received by each and every member of parliament (that is, the electoral allowance), as to what is an appropriate amount if a vehicle is provided for the use of the member to discharge his or her electoral duties. That is what I understand this measure to provide. It will enable the tribunal to deal with the issue of sacrificing part of the allowance and substituting that amount to provide a vehicle.

Of course, there are other issues that will arise—such as who owns the vehicle (and some of my colleagues have already raised that issue); whether, in fact, the benefit will be revenue neutral (which is an important issue in terms of the taxpayer); and, of course, the implications in terms of fringe benefits which would flow from the provision of an item such as a vehicle, which in private enterprise is usually accounted for by the company that provides the vehicle to the employee. I am sure that, with respect to public servants who are provided with a vehicle, the particular department or agency involved would have some accountability in terms of the fringe benefit tax that is payable on the provision of that item.

With those few words I indicate that I have some concerns about the perception, and I have some concerns about the handling of the purchase, the ownership and the end result, that is, the obvious implications in terms of the administration of such issues as fringe benefits tax. Will the government, through the Department of Administrative and Information

Services, and the minister, be the provider of the item or the vehicle, and what mechanism will flow from the administration of the benefit and the reduction of the allowances, should a member of parliament choose to avail himself or herself of that item?

The Hon. J. GAZZOLA: I thank all honourable members for their positive contributions and now ask that we move into committee to consider the bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I want to comment on some of the issues raised by the Hon. Mr Xenophon and some other members in order to clarify them. I think it is important (and this is the case with all legislation on the last day of sitting) that we are pretty clear as to where we are heading. First, I certainly do not want the Hon. Mr Xenophon to misunderstand the comments I made in my second reading speech in relation to salary sacrifice. The point I made in relation to salary sacrifice is that it is available virtually to the whole public sector. I certainly did not mean to convey the impression to the honourable member that the provisions in this bill in relation to motor vehicles are available to all in the public sector, because they are not.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Xenophon is nodding that he understands. I just wanted it to be clear that I certainly did not intentionally mislead him in any way. The comments I made during the second reading were in relation to salary sacrifice. There are provisions in this bill, necessarily, specific to this particular occupational group, that is, members of parliament.

I want to make a couple of other comments. The Hon. Mr Xenophon raised the issue of the ownership of the car. Certainly, the car remains under the ownership of the Crown. It is a bit like our global allowance, such as with fax machines, equipment, computers or whatever else it might be, as members of parliament

The Hon. A.J. Redford: You will have to give back your mobile phone.

The Hon. R.I. LUCAS: Mobile phones remain the property of, in that case, the Legislative Council. The car will remain the same, as I have said. In relation to that subclause where a member might pay out additional costs: that would be at the risk of the individual member. If an individual member pays out additional costs to get a non-standard vehicle and then in some way loses their seat, or if there were an early election and they lost their seat, that car would remain the property of the Crown. They could not then argue, 'I put in an extra $5 000 to do this or that,' because that would be at their risk.

The Hon. Nick Xenophon: The tribunal would have to set those parameters.

The Hon. R.I. LUCAS: Yes; these are issues the tribunal will have to address. Certainly, that would be the case in relation to handing it back to the Crown: it would not be something a member could negotiate. Again, the tribunal will need to set this. My understanding is that there is no provision for purchasing, at some agreed value, the member's car.

The Hon. J.F. Stefani: It would probably have to go to auction.

The Hon. R.I. LUCAS: Yes, it would probably have to go to auction.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: My colleague Mr Redford indicates that that is what happens in the commonwealth; and I think that that is what happens in the other states. Again, the independent tribunal, together with the government, would set these things. It is certainly not the understanding of members that an individual member would then negotiate a friendly deal at the end of the arrangements—

The Hon. J.F. Stefani interjecting:

The Hon. R.I. LUCAS: Yes, I understand that. So, I think we can satisfactorily answer that question. There is another issue I want to address some comment to, and I think it is important. I note that the Hon. Mr Gilfillan and the Hon. Kate Reynolds are here and I will speak collectively to them, because the Hon. Sandra Kanck raised issues of revenue neutrality. There is nothing in the member for Fisher's second reading contribution on that particular issue, and it is certainly not something I addressed in my second reading comments today. I would not want the Hon. Sandra Kanck to be under any misapprehension about what I understand to be on the public record in the House of Assembly and—I can speak for myself—in the Legislative Council.

The issue of whether or not there is revenue neutrality will, ultimately, in large part, depend on the determination of the tribunal, should they go down this particular path. It will depend on the conditions under those subclauses to which I have referred as to whether or not they indicate, under the terms and conditions, that there should be some offset to allowances and what the level of that might be. That is an issue the tribunal needs to determine.

I believe it is impossible for anyone (ultimately, the Treasurer is responsible for this; certainly not I as a former treasurer, although I can put on my hat as a former treasurer) to get a guarantee from anybody—either former treasurer or current Treasurer—at this stage which says: 'This will be absolutely 100 per cent guaranteed revenue neutral.' So, I think that if members are seeking that sort of guarantee or assurance to determine their position, as a former treasurer, I do not believe that that will be possible. Whilst other members have raised the issue as a question (which is fair enough), I gathered from the Hon. Sandra Kanck that she had been led to believe by somebody (and I can say that it was certainly not me) and had been given an assurance that this was going to be revenue neutral.

As I have said, in large part, that will depend on the determination of the tribunal in relation to what terms and conditions it lays down. DAIS (the people who, in the past, looked after the state fleet—and these cars will be part of the state fleet), because the government, as a purchaser of cars does not pay the normal duties that we mere mortals have to pay, has a competitive advantage in purchasing and turning over cars.

Let me just go off on a tangent. I think one of the questions raised by the Hon. Mr Xenophon was: will these be privately plated or state plated? My understanding is that they will be privately plated and not state plated but, again, I assume that the terms and conditions of the tribunal will ultimately make a decision in relation to that. I think that in the other states they have not been state plated, although I could not swear to that. Again, that will be a decision for the tribunal.

To come back to the issue of the state fleet and how it manages its vehicles. As members would know, on most occasions, the cars are turned over every 40 000 kilometres or after two years, on the basis that DAIS, in their management of the state fleet for public servants, has worked out that

that is the most opportune time; certainly in relation to cars for ministers and other office bearers as well.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Okay. My colleague the Hon. Mr Redford indicates that most areas of the private sector does that as well. That is the optimised time in terms of turnover. Certainly, in relation to past calculations that DAIS has done (and I am not aware of anything in the last 15 months, of course), it depends on the market conditions at the time. I know that when the deal was first entered into by the government some years ago (and this has just been changed recently; I think that there was something in the most recent budget about it), because the state government did not pay taxes and charges, it sold these cars at 40 000 kilometres or two years.

There was a very good market for those cars through state auctions, to which the Hon. Mr Stefani has referred. Most of the cars that were being purchased had pretty good resale values. That might not be the case for all of the cars (and, certainly, I am not wishing to indicate that), but, certainly, in relation to some of the analyses that were being done by DAIS at that time, that was the case. Market conditions move, interest rates vary and there are possible financing deals so that certain deals that might have been attractive seven or eight years ago may no longer be as attractive to the state, and the new state government may well have entered into new arrangements as a result of that.

But, broadly speaking, if such a scheme were to be entered into, the government does have competitive advantages in relation to the tax that it does not have to pay compared to individuals; and if the State Fleet guidelines are used that would certainly minimise any potential cost there might be in relation to a scheme. All those issues will have to—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Well, ultimately, the parliament can determine what it wishes to determine, I guess. Certainly, the view from the government members—and, I understand, from the opposition members—with respect to the current guidelines within the legislation is that they are prepared to support. Within the construct, as the Hon. Mr Xenophon will know, if the legislation passes the parliament, the independent tribunal will have to make its independent judgements and assessments. The key issue in relation to this issue of revenue neutrality is the phrase 'the terms and conditions upon which it might implement such a determination'.

That is an issue that will be solely for the discretion of the independent tribunal, subject to, obviously, the parliamentary act that is approved by the parliament. Ultimately, this issue of revenue neutrality is an issue that is significantly to be determined by a decision of the tribunal. But I want to say to the Hon. Sandra Kanck, and to any other member, that I do not believe that anyone has the capacity, given the way in which this act is structured, to give a guarantee that this is going to be absolutely 100 per cent revenue neutral. In my judgment, as a former treasurer, there is likely to be some cost to the taxpayers as a result of this.

What that level is, I cannot say, because the independent tribunal is going to make some judgments in relation to it. I do not want members, such as the Hon. Sandra Kanck, to be labouring under an apprehension that they have been given an assurance that this is going to be revenue neutral and that is the way they vote as a result of that. Given the apparent numbers in this chamber and to ensure the bill's passage ultimately through this chamber, it is important that if members do have concerns they are not under a misapprehension that they are being given an assurance that this is absolutely going to be revenue neutral.

If that is an important issue to them they need to factor that into their consideration and vote accordingly. I would not want the Hon. Sandra Kanck to have botched a vote on this now and then 12 months down the track see a determination and say, 'Well, I was not told this at the time. I was given assurances,' or whatever. I would much prefer the Hon. Sandra Kanck to have all the question marks outlined for her, for her then to make her determination or judgment as she sees fit and she can then live with her conscience in relation to this issue.

The Hon. P. HOLLOWAY: I want briefly to reiterate the points that have just been made by the leader. I think that he has addressed very adequately the situation as it relates to revenue neutrality. Given that this act refers the matters over to the remuneration tribunal to determine, it is very difficult to guess exactly what will come out of that tribunal. Certainly, I would not want the Democrats or anyone else to vote on the basis that that is their understanding. It is certainly not an understanding, of which I am aware, that has been given by anyone from government.

The only other point I wish to add to what the leader said is that, of course, the Democrats, or anyone else, is able to put in a submission to the remuneration tribunal to achieve a particular outcome that they might wish. That is open to any member. After all, this process with the Parliamentary Remuneration Tribunal is a public process and they can put in whatever submissions they like.

The Hon. NICK XENOPHON: I thank the Leader of the Opposition and the Leader of the Government for those explanations. They are being quite candid about it and I think that it is important to have that on the record. Is there at least a ballpark figure in terms of what this may cost? Is there a range of what it may cost at the end of the day? That would be an obvious and not an unreasonable question.

The Hon. P. HOLLOWAY: The Leader of the Opposition just said it, and I thought that I just made the point, that the cost will depend on what the remuneration tribunal determines. This is a private member's bill that has been moved by the Hon. Bob Such. That is the origins of the bill. It is supported by the government. Cost depends, obviously, on the determination of the tribunal.

The Hon. J.F. STEFANI: Would the Leader of the Government be able to advise members whether he is aware of the scheme that is currently implemented at the federal level with respect to the amount that federal members of parliament are required to forgo or pay in relation to the provision of a vehicle?

The Hon. P. HOLLOWAY: I am not personally aware of the conditions in relation to the federal scheme. Again, I remind this committee that this is a private member's bill.

The Hon. IAN GILFILLAN: I would like to indicate that it would be my preference, as the Hon. Sandra Kanck is not with us, for the committee to report progress and seek leave to sit again. I think that the issues that are currently being dealt with in committee are critical to getting people to feel at ease about it. As a result of conversations with my colleague the Hon. Kate Reynolds, we feel that the term 'revenue neutral' is probably a misleading and somewhat ineffective one. We feel, to put it in the simplest terms, that the cap on the actual amount that is allocated for members in salary and in allowances be fixed.

I do not think that we can dictate to the tribunal in this particular case, but the tribunal is encouraged or forcibly

asked that whatever contributions are set for this wider spread of assets that people can take in and have funded be on a realistic level and do not in fact increase the global amount which members of parliament receive. I think it is on that basis that—

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: No, I think that 'revenue neutral' means that there is an income stream and an expense stream. I do not want to be pedantic about the terminology. However, as the Hon. Sandra Kanck is not here and there are other answers that need to be fleshed out a little more, I ask that the committee report progress.

Progress reported; committee to sit again.

CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

In committee.

Clauses 1 to 3 passed.

New clauses 3A and 3B.

The Hon. P. HOLLOWAY: I move:

New clauses, page 3, after line 10—Insert:

Amendment of section 15—Self defence

3A. (1) Section 15(1)—after paragraph (b) insert (as a note to paragraph (b)):

[1.] See, however, section 15C. If the defendant establishes that he or she is entitled to the benefit of that section, this paragraph will be inapplicable.

(2) Section 15(2)—after paragraph (b) insert (as a note to subsection (2)):

[1.] See, however, section 15C. If the defendant establishes that he or she is entitled to the benefit of that section, the defendant will be entitled to a complete defence.

Amendment of section 15A—Defence of property etc

3B.(1) Section 15A(1)—after paragraph (c) insert (as a note to paragraph (c)):

[1.] See, however, section 15C. If the defendant establishes that he or she is entitled to the benefit of that section, this paragraph will be inapplicable.

(2) Section 15A(2)—after paragraph (c) insert (as a note to subsection (2)):

[1.] See, however, section 15C. If the defendant establishes that he or she is entitled to the benefit of that section, the defendant will be entitled to a complete defence.

These amendments inserting new clauses 3A and 3B may be dealt with together. In all, four footnotes are proposed to be inserted in the bill. The footnotes cross reference each other. The aim of the amendments is clarification, not substantive change. The amendments are proposed in response to the results of consultation. Each footnote is identical. It is in each case a note to the general defence of self-defence and defence of property. The result in each case is a reminder that the more objective test for response is qualified by the proposed new exceptional defence. Hence, if the defendant makes out the new exceptional defence, he or she is not required to also make out the more stringent general defence. That would be the result under the unamended bill. The amendments simply make that reasoning more transparent.

The CHAIRMAN: I understand that the Hon. Mr Lawson has an amendment in the same area. If he will put his, we will deal with them sequentially.

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

New clauses, page 3, after line 10—Insert:

Amendment of section 15—Self defence

3A.(1) Section 15(1)(b)—delete paragraph (b) and substitute:

(b) either—

(i) the conduct was, in the circumstances as the defendant genuinely believed them to be, reasonably proportionate to the threat that the defendant genuinely believed to exist; or

(ii) the requirement of reasonable proportionality does not apply in the circumstances of the particular case.[1]

[1.] See section 15C

(2) Section 15(2)—after paragraph (b) insert (as a note to subsection (2)):

[1.] This subsection will not be relevant if the requirement of reasonable proportionality does not apply in the circumstances of the particular case and the defendant is entitled to a complete defence under subsection (1).

Amendment of section 15A—Defence of property etc

3B.(1) Section 15A(1)(c)—delete paragraph (c) and substitute:

(c) either—

(i) the conduct was, in the circumstances as the defendant genuinely believed them to be, reasonably proportionate to the threat that the defendant genuinely believed to exist; or

(ii) the requirement of reasonable proportionality does not apply in the circumstances of the particular case.[1]

[1.] See section 15C

(2) Section 15A(2)—after paragraph (c) insert (as a note to subsection (2)):

[1.] This subsection will not be relevant if the requirement of reasonable proportionality does not apply in the circumstances of the particular case and the defendant is entitled to a complete defence under subsection (1).

First, in relation to the government's amendment to the insertion of footnotes, whilst I will not be opposing the government amendments I do deprecate the use of footnotes in provisions of this kind. They are said to be helpful and explanatory, although in my experience they often do not achieve their intended effect and, in particular, create unintended effects. That is a general comment and not specifically in relation to these particular footnotes. My personal preference is to have incorporated within the body of the provisions such material as is required to explain the operation of those provisions.

The Hon. P. HOLLOWAY: The Hon. Mr Lawson's amendments can be considered as a whole and the first amendment taken as a test case. The amendments have been drafted as a whole to achieve one overall purpose, that is, to remove the proposal of the bill that the onus for establishing the special defence be on the balance of probabilities and place the onus on the prosecution to disprove the special defence beyond a reasonable doubt. The government opposes the amendments. The reasons for this were canvassed extensively at the second reading stage. First, as the Hon. Mr Lawson acknowledged, this is an unprecedented and very special defence. It needs special and unprecedented care.

There must be safeguards against possible abuse. The defendant should be required to go forward to establish that he or she should have the benefit of this special defence. 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, and perhaps most importantly, the placing of the onus on the prosecution to disprove the special defence beyond a reasonable doubt will be practically wrong and will lead to grave difficulties and injustices in the criminal justice system. At the second reading stage I read into the record the strong opposition of the Director of Public Prosecutions to

this proposal and the reasons for it. If members so wish, I will be happy to repeat the exercise. It is quite clear, given this advice, that the amendment changing the onus of proof cannot be supported.

The Hon. R.D. LAWSON: I thank the Attorney for outlining the effect of my proposed amendment. It is correct to say that the purpose of this amendment is simply to reverse the onus of proof that will apply in relation to this defence. Whilst the Attorney says that this is an unprecedented defence and special safeguards are needed against its possible abuse, by the same token this is a defence that has been widely promoted by the government in the community as providing to householders an exemption from the requirement to act reasonably, objectively reasonably, in relation to responding to a home invader.

It is entirely anomalous in our view that, unlike the general law of self-defence, where the onus is on the prosecution to prove all the elements and to disprove self-defence, in this particular defence the onus will be cast upon the householder. It is important to note that in section 15 and 15A of the existing legislation there was inserted—from my recollection as a result of the activities of my colleague the Hon. Angus Redford—a special provision: subsection (5) of section 15 and subsection (4) of section 15A, both of which provide that, if a defendant raises a defence under this section, the defence is taken to have been established unless the prosecution disproves the defence beyond reasonable doubt.

That principle or onus ought to apply to this new defence, otherwise we will have the situation where one onus applies in relation to the general provisions and a less favourable onus applies to the householder in this widely promoted additional defence. It is wrong in principle to have a different onus of proof applying to self-defence that is applied inside the gate of one's house to the rule which will apply to an act of self-defence outside the front gate. It is anomalous and wrong in principle. The same rules as to onus of proof should apply to all forms of the defence of self-defence. As I said in my second reading contribution, if this provision is allowed to continue in the government's proposal, it will be harder for a householder to obtain the benefit of this defence than it will be for a camel to pass through the eye of the proverbial needle.

The Hon. A.J. REDFORD: It defies my understanding how anyone could expect a jury to be given a general direction on the burden of proof. I urge the Attorney to look at some of the cases on this burden of proof. There is case after case in the courts of criminal appeal dealing with this burden of proof and the explanation given to the jury and examples of how fraught with risk and dangerous it can be. Judges have to be extremely careful about how they direct a jury in a normal criminal case about the burden of proof. If someone seeks to avail themselves of this defence, or even if there are circumstances which might cause this defence to become an issue, a judge has a duty to then direct a jury in relation to this burden of proof.

I say with the greatest respect to the decision of the DPP, as I know where he is coming from and it is not an unreasonable position (and I will come back to that): how on earth can we expect a judge to sit there and give a general direction to a jury who, I remind the Attorney, are given a piece of paper and a pencil (and that is about the only resource we give these people), to take a general direction about the presumption of innocence and the burden of proof and, if these circumstances should arise, a separate and distinct direction on different terms in relation to the issues that are covered within this section? All you will do, with the greatest of respect, is cause enormous confusion in the minds of the jury and place enormous pressure on a judge in the sense of providing different directions on burdens and standards of proof. If anyone can justify that position, they lose my respect.

The Director of Public Prosecutions is saying that he does not think that this section is required at all. He does not accept it and he is trying to say, 'All right, if you have to have this section, make it so hard that no one uses it so I don't have to bother with it.' That is the net effect and I can understand him coming to that position because of the criticisms I made of these provisions in my second reading speech, which the Hon. Paul Holloway glossed over in his response.

I would like the Attorney to respond. Does he think it will be easy for a judge in a case like this to provide differing directions in differing circumstances on both the standard of proof and, secondly, the presumption of innocence? Does he acknowledge that that will pose great challenges to the jury as we currently operate in this state in applying those different standards of proof and different presumptions of innocence?

The Hon. IAN GILFILLAN: While the Attorney is deliberating on his response, I will indicate the general approach of the Democrats. We opposed the second reading and will oppose the bill right through. However, where it does appear possible that we can mitigate the impact, that is the way we will tend to go in supporting or not supporting amendments. Therefore, it is apparent that the bill as drafted is less onerous than the amendment as proposed by the opposition, and on that basis we will be opposing the opposition amendment.

The Hon. P. HOLLOWAY: The short answer to the Hon. Mr Lawson is that the policy of the government and the bill is wholly to make a distinction between what happens inside the householder's property and outside it. That important point needs to be made. In answer to the Hon. Mr Redford, the enactment of the special defence must inevitably make the task of directing the jury more difficult, but the real question is what is substantively right. The government is of the opinion that it is right for the reasons already given. It is a matter of what is right rather than what is more difficult.

The Hon. A.J. REDFORD: Does the Attorney agree that we will get comments again like we got from the Court of Criminal Appeal in Bednakov if these enactments go through? Is the Attorney confident that when a judge finally has to deal with this he will criticise the section?

The Hon. P. HOLLOWAY: Judges will make comments as they will. They will do what they will and only time will tell.

The Hon. R.D. LAWSON: The Attorney drew attention to the letter that he read into *Hansard* from the Director of Public Prosecutions. In the second to last paragraph of that letter the Director of Public Prosecutions said '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 DPP says that this defence is an excuse for otherwise criminal behaviour. That statement is quite inconsistent with the rhetoric of the former attorney-general, who spoke of this defence as representing the right of a householder.

In his quote from Pitt he talked of the Englishman's home as his castle. He and the government were not speaking during the election campaign or more recently of this defence being an excuse for criminal behaviour: he is saying that it

is proposed by this government that it would not be criminal behaviour—not a question of a defence but a question of the exercise by the householder of a right and in those circumstances it is quite improper to reverse the onus of proof. I do not accept the validity of the reasoning of the DPP in light of the government policy, certainly the policy as promoted by the government, which is to create a right and not simply to provide an excuse for otherwise criminal behaviour. I ask the Attorney to indicate to the committee what is the government's policy.

The Hon. P. HOLLOWAY: I agree that there is an inconsistency. In technical terms, the DPP is in error only in using the word 'excuse'. The correct technical legal word is justification. That aside, it is correct in law to say any part of self-defence justifies otherwise criminal behaviour. We have rights not to be attacked in our own home. We have that right. To assault, injure or kill anyone is obviously against the law in normal circumstances. There is nothing profound about making that statement. Any sort of self-defence is a justification for otherwise criminal behaviour because it must necessarily involve some sort of action.

The Hon. NICK XENOPHON: The Attorney says that people have the right not to be attacked in their own home. I do not think there is any question about that pronouncement: we are all agreed on that. The issue here is one of a perception of attack; whether a person's actions, in terms of their perception of an anticipated attack, are reasonable. My understanding is that the effect of this may mean that there will be cases where individuals take action in perception of defending themselves, when a reasonable person would not have taken that action. It is a much more subjective set of circumstances that we are now looking at with this bill than otherwise.

The Hon. R.D. LAWSON: The honourable member has posed a question and the Attorney is declining to answer it.

The Hon. P. HOLLOWAY: What is the question? I thought it was a statement.

The Hon. NICK XENOPHON: I am sorry if I was discursive. It is a question. Does this law mean that there is now a much more subjective test in relation to the perception of attack in terms of someone defending their home? As a consequence of that change, will it mean that there will be circumstances where someone will act under a perception to defend their home, where, in other circumstances, if we used a reasonable person test in terms of that perception being based on reasonable grounds, that would no longer apply?

The Hon. P. HOLLOWAY: All that has changed is the perception of response.

The Hon. A.J. REDFORD: The Director of Public Prosecutions adequately states it in his letter, which the Attorney-General read into the record, as follows:

> 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 or property in certain circumstances.

It removes the reasonableness test or any sense of objectivity. It might well be argued that it also removes any sense of subjectivity in terms of a response in so far as a home invasion is concerned. All that has to be shown is that the person had an honest and genuine belief that they were being attacked and they were at risk. The response then is entirely a matter for the person. He can pull out an Uzi or throw a hand grenade. It goes even further than requiring an honest belief in the response. My understanding, and I am sure that the Attorney-General will correct me if I am wrong, is that that person does not even have to have an honest belief in so far as their response is concerned.

The Hon. R.D. LAWSON: Presently section 15(2)(a) refers to the requirement that the defendant genuinely believed that the conduct to which the charge relates to be necessary and reasonable for a defensive purpose, and that is entirely subjective. That is the existing law of self-defence, and that is unaffected by this new defence, which affects only section 15(2)(b), which deals with the proportionality of the response. The subjective element of the defendant's genuine belief in the conduct as necessary for a defensive purpose remains, and remains subjective.

The Hon. NICK XENOPHON: In terms of the proportionality of the response, does it mean that, if a householder suffers from a psychiatric illness, that is, for instance, a paranoid disorder, and that person, as a result of that psychiatric illness, responds in a manner that is well beyond the way in which a reasonable person in the community would respond, they would have a defence with this proposed law?

The Hon. P. HOLLOWAY: Yes, but that is also true to some extent under existing law.

The Hon. R.D. LAWSON: I return the Attorney to the DPP's memorandum which was read into the record. I preface my remarks by saying that one of the oft-touted reasons for this new defence is the case of Albert Geisler, the man who, in his own home, fired a shot and killed an intruder but who was never charged with anything because the DPP deemed it inappropriate to lay a charge. However, in his memo, the DPP states:

> In all likelihood this evidence will not become apparent until the trial. There will be, therefore, little opportunity for investigation and much will depend on 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.

The point that I make and on which I seek the Attorney's comment is this: under the existing defence, the DPP has an opportunity, as he exercised in Geisler's case, to say that there will be no prosecution. Does the Attorney-General agree that, according to the DPP, these issues, because of the onus of proof provisions, will not be resolved until trial or by cross-examination, which means that it will be necessary to put the householder on trial and to have him give evidence and be cross-examined in order to discharge the onus of proof that has now been cast upon him?

The Hon. P. HOLLOWAY: My understanding of what the Director of Public Prosecutions is saying is that if the onus is on the defendant, as proposed, then that will not be the case.

The Hon. A.J. REDFORD: It is a fairly simple point, but obviously the Attorney cannot follow it. The point is that because of the reversal of the onus of proof, the application of the Director of Public Prosecution's prosecutorial discretion means—in the context of this bill—that he is more likely to prosecute in the Geisler situation than under the current law. This is because he will be obliged to deal with it on the basis of the law, that is, that there is an onus upon the Mr Geislers of this world to prove their case.

The Hon. P. HOLLOWAY: If you recall, there are two reasons, and the point the DPP makes in part (b) is:

> 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.

In the case of Mr Geisler, which has been raised, because the householder will bear the onus of proof they would have to

come forward and tell the Director of Public Prosecutions in order not to be prosecuted. I assume that that is what is meant there, so if the onus is on him it is more likely that the issues will be clearly defined prior to trial with the resultant—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Because as I said, they will have to come forward and, I imagine, convince the DPP.

The Hon. R.D. LAWSON: It is obviously accepted that Mr Geisler was entitled to the South Australian law of self-defence as it applied at the time his incident occurred: Mr Geisler was protected by the existing provisions. However, if he wanted to avail himself of this additional defence is it not the case that he would have to submit himself to cross-examination, because under this new provision—unlike the earlier provision that he could rely upon—the onus is cast upon him to bring himself within these provisions? So Mr Geisler would not have been advantaged by a provision of this kind.

The Hon. P. HOLLOWAY: I believe that that depends on whether Mr Geisler were to go to trial—if he went to trial that might be the case. But the question is, would he go to trial?

The Hon. R.D. LAWSON: Can I put the matter in another way, and seek the Attorney's comment on this? At the conclusion of his memorandum, Mr Rofe says:

> The likelihood of greater openness will permit negotiation where otherwise defence counsel would be more inclined to "keep their powder dry" and to allow for the timely and inexpensive resolution of appropriate matters prior to trial.

Whilst we might all support more timely and less expensive litigation and trials, it is a fact that at the moment counsel representing a householder are entitled—the common law allows them—to keep their powder dry. Why should not counsel acting for a householder be entitled to keep his powder dry?

The Hon. P. HOLLOWAY: I think the answer is that we are talking here about an exceptional defence, and they are able to 'keep their powder dry', as the DPP quotes it, in relation to the general defence. They can keep their powder dry for the general defence but here we are talking about this exceptional defence.

The Hon. A.J. REDFORD: I will just make a comment, and then I have a question in relation to this clause. I find it surprising that the government's position is that it is happy to accommodate a reversal of onus of proof; but the Director of Public Prosecutions supports it because it is more likely that people will waive their right to silence and disclose to the Director of Public Prosecutions the defence. In fact, it is entirely consistent with what I would suspect most prosecutors would dearly like to have. We do not put terrorists in that position, we do not put rapists in that position, yet we are going to put poor old mum and dad house owners in that position, and in a situation where they are defending their property from a home invasion. I find it extraordinary. In relation to this clause, has the government at any stage sought any comment on this amendment or, indeed, any other provision in the bill from any judicial officer and, if so, what has that comment been?

The Hon. P. HOLLOWAY: Obviously this bill was before this house before I became Attorney and it has been around for some time. But I advise that there was consultation. The Chief Justice wrote to the former attorney on 21 May. I understand that he did not raise any objection to the onus of proof issue, but he did raise a number of other matters, which have been accommodated in the government amendments that are under discussion now, that is, new clauses 3a and 3b.

The Hon. A.J. REDFORD: I would be interested to know what the Chief Justice says in relation to the need for these amendments. I would love a copy of the letter, if that is appropriate.

The Hon. P. HOLLOWAY: It might be helpful if I read out the relevant portion of the letter, as follows:

> There are two drafting matters on which I wish to comment. Clause 15C(2) requires a defendant to establish, on the balance of probabilities, that the section is applicable. That would require the defendant to satisfy clause 15C(1)(b) by proving that a relevant defence would have been available. That would seem to have the effect of requiring the defendant to prove elements of the defence of self-defence which, ultimately, must be disproved by the prosecution.
>
> In other words, the provision requires the defendant to prove something on the balance of probabilities that also has to be disproved by the prosecution beyond reasonable doubt. This requires further consideration. A solution may be to provide that the requirement in section 15C(2) does not apply to clause 15C(1)(b), but the solution may require further thought.
>
> The other issue arises under section 15(2) of the CLCA. Section 15(2) creates a partial defence to a charge of murder, the defence being available when the defendant genuinely believes the conduct is necessary and reasonable, but the conduct was not in those circumstances reasonably proportionate to the threat. The intention behind clause 15C appears to provide that the availability of self-defence does not depend upon conduct being reasonably proportionate in the circumstance identified in clause 15C. In other words, clause 15C appears intended to modify section 15(2) when the defendant believes the victim to be committing or to have just committed a home invasion.
>
> It seems to me that it would be desirable to make it clear that the application of section 15(2) is modified, rather than leave it to implication.

The Hon. R.D. LAWSON: I make two comments about that. During my second reading contribution, I asked the Attorney to indicate whether any advice had been received from the judiciary about this matter, and it was not until the Attorney was pressed during the committee stage that this information was revealed. I am disappointed that the important information from the judges was not conveyed to the parliament earlier because, obviously, the comments of the judge are significant, and their precise import is not immediately obvious from the Attorney's reading them. Speaking for myself (and I am sure that I speak for other members), I would like to have the opportunity to examine quite closely what the Chief Justice was saying and also to ensure—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: Here we have a comment of some complexity, on a difficult issue, from the judiciary. The committee ought to have the opportunity—

The Hon. P. Holloway: Essentially, that is what he was saying.

The Hon. R.D. LAWSON: With the greatest respect, the judge said that it needs further thought. We want to be satisfied in the committee that the government has, in fact, given the matter further thought and, if so, what it has done in relation to the matter.

The Hon. P. HOLLOWAY: One point I should make is that the Chief Justice's first point was solved by the government's amendment in another place. So, it has already been incorporated in the bill. I think it is important to note that. As I said, I have taken over the carriage of this bill halfway through its passage. In relation to the first point made by the honourable member, I was not involved in some of the history of the bill, and I hope that he would understand that. The Chief Justice's second point is addressed by the amend-

ments that are now proposed. So, there were two points. The first point was previously addressed by the government's amendment in the House of Assembly, and the second point is addressed by the amendments now proposed.

The Hon. R.D. LAWSON: It ought to be said that the former attorney-general in another place, when asked to explain the reason for the amendments introduced there, said that they had been suggested by Mr Leader-Elliott of the University of Adelaide—as, indeed, I understand to be the case. He did not say that they were in any way suggested, or supported, by the judiciary and, in fact, expressly disavowed the appropriateness of any judicial intervention, which he said would have been a breach of the separation of powers, as I recall his comment. Whilst I accept that the Attorney is new to this role and may not be familiar with what his predecessor said in another place, I can only say that what was said in another place is inconsistent with what the Attorney is now saying.

The Hon. P. HOLLOWAY: I have a simple answer for that. The Chief Justice's letter is dated 21 May, while the former attorney's comments were made on 15 May. Mr eader-Elliott, I am advised, did make, essentially, the same suggestion. So, in fact, there is no conflict.

The Hon. A.J. Redford: I call on the Attorney to table the letter from which he quoted.

The CHAIRMAN: The honourable member can call on the Attorney, but, if the document is of a confidential nature and he does not want to do it, that is for the honourable member.

The Hon. A.J. Redford: I will have to move a motion.

The Hon. P. HOLLOWAY: The honourable member asked me whether I had done it, and I have read into *Hansard* the relevant portions.

The Hon. A.J. Redford: Table it, then, and I can have a copy of it and we can look at it over lunch.

The Hon. P. HOLLOWAY: I do not know what the precedents are in relation to these matters, and I would like to at least consider the matter.

The CHAIRMAN: It might be an appropriate time to report progress.

The Hon. P. HOLLOWAY: I think that what is happening here is just a diversion. The essential information is out there. If members opposite do not like the bill, they can vote against it. We have spent a significant amount of time in relation to this matter, and we have just been going around in circles, essentially covering the same points.

The Hon. A.J. Redford: No, we got a couple of new ones—like this letter.

The Hon. P. HOLLOWAY: I have just read out the essential information in the letter. There is only, I think, one paragraph in it apart from that.

The CHAIRMAN: There is much in what the minister asserts. This is not the High Court, a philosophical society or a lawyers' convention. If there is no new information, I tend to support the view that it is about time that we dealt with the matter. I am sure that the Hon. Mr Lawson will make his contribution with those points in mind, considering the time.

The Hon. R.D. LAWSON: Thank you, Mr Chairman. I will be brief. The Attorney said that the opposition does not like the bill. The opposition seeks, through this committee process, to improve the bill. That is the function of the committee. In order to improve the bill, the committee needs all the information that it can possibly have to help it. My colleague the Hon. Angus Redford, in calling for the document to be tabled, was merely seeking to enable the committee to fulfil its proper constitutional function, namely, of considering—and, if possible, improving—any measure.

Progress reported: committee to sit again.

[Sitting suspended from 1 to 2.17 p.m.]

PAPERS TABLED

The following papers were laid on the table:

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

Government Response to the Emergency Services Review—July 2003

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

University of South Australia—Report, 2002.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 226, 251, 252, 255, 257, 258, 270 and 271.

ROAD FATALITIES

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

1. How many people were killed on South Australian roads with a speed limit of 60 km/h for the period 1 January 2002 to 31 December 2002?

2. For the same time period, how many people were killed on South Australian roads that have now been reduced to 50 km/h?

3. For the same time period, how many people were killed on South Australian roads with a 60 km/h speed limit that has remained unchanged?

4. How many lives does the Government estimate will be saved over the next twelve months as a result of the speed limit being reduced from 60 km/h to 50 km/h?

The Hon. T.G. ROBERTS:

1. A total of 41 people were killed on South Australian roads with a speed limit of 60 km/h during 2002.

2. For the same time period, 17 (or 41 per cent) of these fatalities occurred on roads that have now been reduced to 50km/h.

3. For the same time period, 24 (or 59 per cent) of these fatalities occurred on roads that remain at 60km/h.

4. Based on research in other States and nationally, the saving in fatalities and serious injuries in South Australia is expected to be around 50 per annum, or one a week.

MURRAY RIVER, BOARDS AND COMMITTEES

251. **The Hon. CAROLINE SCHAEFER:**

1. Which specific Government Boards and/or Committees under the portfolio of the River Murray is the Minister intending to abolish?

2. How much money will be saved by axing these bodies?

The Hon. T.G. ROBERTS:

1. Following the recent Economic Summit, the Premier announced a review of Government Boards and Committees. That review is now underway for all portfolios.

2. It would be premature to estimate potential cost savings until the review has been completed and final decisions made.

ENVIRONMENT AND CONSERVATION, BOARDS AND COMMITTEES

252. **The Hon. CAROLINE SCHAEFER:**

1. Which specific Government Boards and/or Committees under the portfolio of Environment and Conservation is the Minister intending to abolish?

2. How much money will be saved by axing these bodies?

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. Following the recent Economic Summit, the Premier announced a review of Government Boards and Committees. That review is now underway for all portfolios.

2. It would be premature to estimate potential cost savings until the review has been completed and final decisions made.

MUSIC HOUSE

255. **The Hon. SANDRA KANCK:**

1. What is the annual rental being charged to Mr. Peter Darwin for rental of the former Music House venue?

2. Were any financial inducements offered to Mr. Darwin to operate the venue?

3. Are any State Government subsidies being provided to cover the cost of the operation of the venue?

The Hon. T.G. ROBERTS: The Minister Assisting the Premier in the Arts, has been advised:

1. The proposed annual rental for the venue is $35,000 per annum.

2. No financial inducements were offered to Mr Darwin to operate the venue. All shortlisted applicants were advised a short period of rental reduction might be possible, and that this should be factored into their business plans for the venue. This kind of arrangement is standard business practice. The relevant period for Mr Darwin is three months.

3. There are no other Government subsidies for the venue.

ROAD ACCIDENTS

257. **The Hon. T.G. CAMERON:** How many South Australian serious road accidents were estimated to have occurred due to mechanical failure or unroadworthiness for the years 2000; 2001; and 2002?

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

A serious road crash is one that results in a fatality or serious injury. The road crash information on record with the Department of Transport and Urban Planning does not routinely include information on the roadworthiness of vehicles involved in road crashes in South Australia. However, the following information is provided for serious road crashes where the apparent error (as reported) was mechanical failure:

2000	25
2001	21
2002	20

258. **The Hon. T.G. CAMERON:** For the years 2000, 2001 and 2002:

1. What were the major causes of South Australian road accidents by order of frequency?

2. How many actual accidents occurred for each of those causes?

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

	2000	2001	2002
Inattention	17,375	17,711	17,316
Fail to Give Way	5,257	5,181	5,001
Reverse Without Due Care	4,459	4,624	4,584
Follow Too Closely	3,053	3,100	2,933
Fail To Stand	2,033	1,977	1,964
Change Lanes To Endanger	1,623	1,776	1,610
Fail To Keep Left	743	772	764
Overtake Without Due Care	771	644	729
Disobey Give Way Sign	653	636	664
Disobey Traffic Lights	630	610	651
Disobey Stop Sign	476	540	540

It should be noted that cause descriptions have a degree of subjectivity, as records reflect the opinion of the involved driver or reporting police officer.

DAIRY INDUSTRY

270. **The Hon. T.G. CAMERON:** With regard to the recent submissions to the state government by the Milk Vendors Association of South Australia concerning dairy industry deregulation:

1. What is the current state of negotiations between the Milk vendors Association and the government with regard to financial and other assistance?

2. (a) Is the government considering implementing any of the Milk Vendors Association recommendations; and

(b) If so, which ones?

3. When will a final decision on this matter be made?

The Hon. P. HOLLOWAY: The Milk Vendors Association of South Australia provided me with a proposal which they believed could restructure the milk vendor distribution sector in this State.

The proposal was based on 4 main strategies as follows:

- To buy back all current processor contracts at pre deregulation values at a cost of $37 million.
- To adjust and consolidate businesses to create more viable sales territories.
- To allocate by tender the consolidated businesses with estimated proceeds of $14 million.
- And, for the State Government to impose a 4 cents per litre levy on the retail price of white milk in South Australia for a 3 year period.

The Milk Vendors Association estimated that the levy would raise $23 million and therefore fund the difference between the buy back scheme, and the allocation and sale by tender of consolidated businesses.

The need to raise $23 million through a Government imposed levy is the key element to the proposal. However, the Crown Solicitor has advised that for various Constitutional and legal reasons the State could not validly impose such a levy. It is the Federal Government, not States, that has the exclusive power to raise duties of excise as has been proposed by the Milk Vendors Association.

The Milk Vendors Association proposal was based around a regulated restructure program that involved administering a buy back scheme, consolidation and allocation of rounds and ongoing control over the number of rounds to ensure viability.

Even if funds were available for this scheme, the Government would be concerned that some or all of these measures could be construed as being contrary to National Competition Policy. They would also be very difficult to manage and control in a deregulated commercial market.

It is not possible for the Government to specifically commit funds to compensate individual businesses in any industry sector for their lost value over time. We are therefore not in the position to implement any of the Milk Vendors Association's recommendations.

Following consideration of these factors, I wrote to the Milk Vendors Association on 26 May 2003 to provide it with my final decision that it is not feasible to implement its proposal.

In this correspondence, I commended the Association for its efforts to try and find a way forward for its members. I suggested that it should assist those vendors who wish to remain in business to negotiate more viable contractual arrangements with processors and retailers, as well as to diversify their businesses to better match the changed commercial environment. In addition, I suggested that the Association could have a role to broker sales and consolidate rounds with buyers for the mutual benefit of both parties in the long term.

In my letter of 26 May 2003, I also recommended that the Association liaises with the Centre for Innovation, Business and Manufacturing to seek support to arrange business development and planning programs for its members.

WATER SUPPLY

271. **The Hon. SANDRA KANCK:**

1. (a) Have there been any applications for exemptions from water quality criteria for underground water pursuant to clause 15 of the Environment Protection (Water Quality) Policy 2003?

(b) If so, what are the names of the applicants?

(c) What is the location of the water resources in question?

(d) What has been the result of the applications?

2. Does the minister expect the operator of the Beverley uranium mine and the operator of the Honeymoon uranium mine to lodge applications?

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. No.

2. No, clause 4(4) of the Policy states Nothing in this policy affects the operation of an environmental authorisation granted under the Act, or any authority or exemption given by or under any other Act or law, and in force immediately before the commencement of this policy. I can advise, however, that requirements of the policy will be taken into account in any renewal of licences for those mines.

QUESTION TIME

LABOR PARTY RAFFLE

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Gambling a question about the ALP rafflegate scandal.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that concerns have been expressed in the community about the inquiries that were conducted into the Rann government corruption allegations issue, in particular the McCann inquiry, the reference to the Victorian legal officers and the material that was then forwarded to our state's Auditor-General. In relation to the first three matters, particular concerns have been expressed by a number of constituents to my office that neither Mr McCann nor the Victorian legal officers (actually, no-one) interviewed Mr Ralph Clarke and potentially other key people in the course of what was meant to have been comprehensive and independent inquiries.

We are also aware that the government has made an announcement that the Commissioner for Taxation is undertaking an inquiry into what has become known in the community as the ALP Rafflegate scandal. My questions to the minister representing the Minister for Gambling are:

1. Will he give an absolute assurance that this particular inquiry will not be a whitewash and, in particular, that key people will be interviewed by the commissioner and/or his officers during the conduct of this inquiry?

2. I seek an assurance that Senator Nick Bolkus will be interviewed by the commissioner and his inquirers; that Senator Penny Wong (who was the ALP campaign manager for Hindmarsh) will be interviewed; that the Minister for Gambling's gambling adviser, Mr Steve Georgianas (the former Labor candidate for Hindmarsh), will be interviewed; and that the office manager to the Minister for Gambling, Ms Carmela Luscri (who, according to the *Advertiser*, was the campaign treasurer for Hindmarsh during this particular period), will also be interviewed.

3. Given that this also raises questions about the independence and potential conflicts here, will the Minister for Gambling himself be interviewed, given his connections with the group organising this particular 'rafflegate' scandal but also given the fact that two of the key operators are now personal advisers to him and, in particular, one is also his gambling adviser?

4. Will the minister give an absolute assurance that the commissioner will establish which body within the ALP under the lottery and gaming regulations is the management committee of the association conducting the lottery? I have indicated that potentially, in my view and that of some that I have spoken to, the management committee of the association conducting this lottery is the state executive of the Australian Labor Party. I have sought answers from the government as to which current ministers and state Labor members of parliament are on the state executive, and the Rann government has refused to answer those questions. So, I seek an absolute assurance that the commissioner will establish what is the management committee under the lottery and gaming regulations of the association conducting the lottery, and that the appropriate people on that management committee will also be interviewed in relation to the conduct of this investigation.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place and bring back a reply. I suspect that a supplementary might come along the lines that the Crown Prince of Serbia be added to that trawling list!

The Hon. R.D. LAWSON: As a supplementary question: will the minister also confirm that the Minister for Gambling has engaged private legal counsel to provide him with advice relating to his involvement in raffle fundraisers, and will the minister confirm that he is personally paying for such private legal counsel and public funds will not be employed for that purpose?

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

The Hon. CARMEL ZOLLO: As a further supplementary question: will the minister undertake to investigate any Liberal Party fundraising that may possibly not have met the guidelines of disclosure under the Electoral Act?

The Hon. T.G. ROBERTS: I do not think 'Catch Tim' had a prize for the donations that were being made, but I will refer that important question to the minister in another place and bring back a reply.

CONSTITUTIONAL CONVENTION

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

Leave granted.

The Hon. R.D. LAWSON: The Constitutional Convention will be held in early August this year. It is being conducted by Issues Deliberation Australia, an organisation headed by Dr Pamela Ryan. Issues Deliberation Australia was appointed following a public tender process to conduct the convention. Amongst the questions to be addressed by delegates is the question of citizen initiated referenda, about which the member for Hammond and Speaker of the House of Assembly, the Hon. Peter Lewis, has been an enthusiastic champion, certainly in the community meetings attended by the President and I and others, and over preceding years.

During community consultations it was revealed to the community that 300 randomly selected delegates would comprise the Constitutional Convention, which would have absent from it what the former attorney-general described as 'the usual suspects', namely, members of parliament, lawyers, academics, judges and the like. Particular emphasis was placed on the fact that members of parliament were biased towards particular positions.

Issues Deliberation Australia has issued a proposed list of panellists for each of the plenary sessions, and the panellists for the plenary session relating to citizens initiated referenda include none other than the Hon. Peter Lewis. The opposition has since ascertained that a contract between the government and Issues Deliberation Australia contains the following requirement:

> Ensure that the Hon. Peter Lewis, subject to this agreement, is a panellist in all plenary sessions of the event, and as convener of the convention is able to address the convention during the opening and closing sessions for a time prescribed by the supplier.

I understand that the former attorney-general expressed the view that the inclusion of Mr Lewis would prevent him from

coming back later and suggesting that his arguments had not been heard by the convention. My questions to the Attorney-General are:

1. Will he confirm that the contract entered into between the government and Issues Deliberation Australia contains the clause that I read?

2. Will he reveal any other provisions of the contract between the government and Issues Deliberation Australia which were not revealed to the steering committee?

3. Will he table the contract?

The Hon. P. HOLLOWAY (Attorney-General): I will consider the matters raised by the honourable member. As he knows, I was not a member of the steering committee, unlike the member who asked the question, who has been part of the steering committee of the convention and probably has significantly greater background knowledge of what has happened with the Constitutional Convention than do I. I will take his question on notice and bring back a response.

The Hon. J.S.L. DAWKINS: Will the Attorney indicate what steps are being taken to ensure that country residents are adequately represented among the Constitutional Convention delegates?

The Hon. P. HOLLOWAY: Perhaps someone like yourself, Mr President, who has been on that steering committee would have a better idea of that than would I.

The Hon. Carmel Zollo: The Speaker made a statement yesterday.

The Hon. P. HOLLOWAY: I think there has been some communication in relation to that. Certainly there was a community consultation process, as you would be well aware, Mr President, as I believe you and other members of the committee—the former attorney-general and shadow attorney-general—went all over the state. I understand that not too many major towns in this state were not visited. Specifically in relation to the choosing of the 300 delegates, I will need to get some information.

The Hon. R.D. LAWSON: By way of further supplementary question, will the Attorney in making the inquiries to which he refers confirm that the steering committee was not consulted upon the terms of the contract between the government and Issues Deliberation Australia and was not subsequently supplied with a copy of such contract?

The Hon. P. HOLLOWAY: As the honourable member is a member of the steering committee I guess he is making a point; but I will seek an answer to his question.

EMERGENCY SERVICES

The Hon. P. HOLLOWAY (Attorney-General): I table the government's response to the Emergency Services Review of July 2003.

The Hon. P. HOLLOWAY: I table a ministerial statement made by the Minister for Emergency Services on the government's response to the Emergency Services Review.

ECONOMIC DEVELOPMENT BOARD

The Hon. P. HOLLOWAY (Attorney-General): I table a ministerial statement in relation to the Economic Development Board recommendations made by the Premier today.

OYSTERS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, a question on oyster lease transfers.

Leave granted.

The Hon. CAROLINE SCHAEFER: A number of years ago a step was taken to confer property rights on oyster leases. I believe that they are similar to a miscellaneous lease on land and they have a 10-year rollover tenure, which enables people to buy, sell and borrow against those leases. For a number of years now, the government has forgone stamp duty on the intergenerational transfer of farming land. A number of the original oyster lease owners are wishing to retire and transfer their leases to the next generation. My question is: will the minister consider entering into the same arrangements for the intergenerational transfer of oyster leases, or any aquaculture leases, as are offered on the intergenerational transfer of farming land?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I assume that the honourable member is talking about stamp duty.

The Hon. Caroline Schaefer: Yes.

The Hon. P. HOLLOWAY: That is technically a matter for the Treasurer, so I will raise the matter with him, because he has responsibility for that.

BUNDAWISE

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question regarding an educative film aimed at young indigenous people.

Leave granted.

The Hon. J. GAZZOLA: I understand that a short film that teaches indigenous young people about spending their money wisely was launched recently. Given the problems associated with the lack of disposable income and poverty faced by many indigenous people in communities in metropolitan, regional and remote areas, I believe that this is an important initiative. Will the minister give details of the initiative, its aims and how the film was made?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important question and his ongoing interest in this area. *Bundawise*, a short film that teaches indigenous young people about spending their money wisely, premiered at the NAIDOC ball in Adelaide over the weekend. Bunda is the indigenous word for money. The film was produced by young indigenous people from Nunga IT, an indigenous web design and multimedia program for young people at The Parks Community Centre. *Bundawise* demonstrates the success of the Nunga IT program in engaging indigenous young people to develop their skills, self-esteem and confidence.

Nunga IT began as a way of using IT and multimedia to lead indigenous young people into positive health outcomes in the long term. Social and physical health is important for young people to develop self-esteem and confidence, to be involved in education and employment opportunities, and to participate in their local community. The film was shot on location in Adelaide involving young indigenous actors, technicians, writers and artists, after young people involved with Nunga IT expressed an interest in learning about film production.

Bundawise will now be used in communities across South Australia to challenge young people to think about their money and their spending patterns. The Nunga IT program has been so successful that the Aboriginal Services Division of the Department of Human Services is supporting a similar pilot program in the Lower Murray region. DHS provides $130 000 in funding for the program each year, and I thank DHS and the Minister for Health for their interest and good work in this area.

I also commend the work being done by the indigenous communities throughout South Australia in their efforts to produce posters that depict the bad health associated with the abuse of drugs and alcohol. A poster competition was held recently by Tauondi College to promote good health and to show how unwise it is to involve yourself in unhealthy pursuits such as drug and alcohol abuse. I also note the professionalism with which a lot of the competition posters have been mass-produced and circulated throughout the state in an attempt to put people off being introduced to marijuana and other drugs of addiction.

The Drug and Alcohol Council and many Aboriginal bodies are trying to come to terms with some of the lifestyle and health programs that need to be developed to build the confidence and self-esteem of young Aboriginal people in order for them to then participate in extracurricular learning after they leave school. Many leave prematurely and are then reintroduced to the education system in a more senior role. They are then captured by some of these programs, which do lead to permanent employment. Self-motivation can sometimes lead to enterprise building—particularly in relation to the media and IT—if seed funding becomes available.

DEEP SEA PORTS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries a question relating to deep sea ports.

Leave granted.

The Hon. IAN GILFILLAN: I have been contacted by Mr Richard Way, who is a farmer at Port Vincent. He has been a Democrat candidate for Goyder and he has been involved with grain farming on Yorke Peninsula. Of course, his is not the only voice of concern. He is a member of the Port Giles Strategic Site Committee and in that context he has written to the Minister for Transport. His concerns are that the Deep Sea Port Investigation Committee's recommendation and the resultant government policy affecting the PortsCorp sale, specifically the upgrading of Port Giles and Wallaroo and the development of Outer Harbor, could be threatened by the AusBulk announcement of development outside the DSPIC recommendation, and that is to develop the port of Ardrossan.

The upgrading of Port Giles to full and Wallaroo to part panamax capability is being done by Flinders Port as part of the PortsCorp sale process—I am sure the minister and most members would be aware of this process. Mr Way and the Port Giles Strategic Site Committee are very concerned, because they say that one of our major grain companies, AusBulk, made this announcement affectively fragmenting the development of planned least cost grain pathways to export. They are also disappointed that the announcement by AusBulk to develop Ardrossan may have stalled the upgrading of Port Giles and the progress of other DSPIC recommendations that the whole industry has agreed on and supports.

Mr Richard Way actually lives at Port Vincent, as I said. He is 25 kilometres from the natural deep sea port of Port Giles, less than 40 kilometres from Ardrossan—where AusBulk is intending to spend $40 million—and another 100 kilometres away is Wallaroo which will be part panamax capable. Just a little further at 125 kilometres is the inland port of Bowmans which feeds Port Adelaide. My questions are:

1. To the minister's knowledge, has the change in grain movement been costed, because an expanded and costly new port will have to attract grain from both Wallaroo and Bowmans (Port Adelaide) zones as well as Port Giles to get tonnage? This will have to go by road and on unplanned pathways. This will necessitate extra funding to upgrade those roadways affected, and Mr Way and the Port Giles Strategic Site Committee want to know whether that has been assessed.

2. In the light of the recent announcement by Ausbulk that it is developing the port of Ardrossan, what is the government's position on the upgrading of Port Giles and the other DSPIC recommendations?

3. Does the minister believe that this development by Ausbulk will have any affect on the PortsCorp sale agreement?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Many of those questions, in particular the latter one which seeks the impact that any decision by AusBulk at Ardrossan would have upon the agreement for the Flinders Port sale, could obviously be answered only by the Minister for Infrastructure who would have responsibility for that sale and presumably responsibility for the residual outcome of that particular sale. I would need to obtain that information from him.

I guess the honourable member has invited me to make some general comments in relation to what is happening here with AusBulk. AusBulk is a private company, and it is entitled to take whatever action it wants in the marketplace. I point out to the honourable member that, certainly, at the time that AusBulk was corporatised—when it was the old South Australian Cooperative Bulk Handling, then becoming AusBulk—there may have been some dilution of its shareholders but, basically, I would still expect that most of the shareholders of AusBulk would be South Australian grain growers—the sort of people to whom the honourable member referred in his question. One of the points that I have made in my discussions with AusBulk, ABB and other members of the grain industry which raised these issues with me, is that, essentially, the shareholders of those major grain companies are, to a large extent, the same people: they are the grain growers of this state. If they use their powers as shareholders I am sure that they can, to a significant extent, influence the outcomes in the grain industry. I think that it certainly would be helpful if that were to occur.

The honourable member referred to the situation at Ardrossan. I am sure he is aware that, at one stage, there were certainly press reports that AWB was interested in building a new grain storage at Mypony Point, which is just north of Wallaroo. A number of proposals have been floated around by various players in relation to grain handling in that area. I would certainly be surprised (to answer one part of the member's question) if there had been any new studies following the original studies into the deep sea port issue in relation to the impact of any of those proposals—be it for Ardrossan, Mypony Point or anywhere else. I imagine that the companies have done their own feasibility studies, but I

would be surprised if any studies had been detailed. I will try to obtain some confirmation of that for the honourable member.

Obviously, this state has an interest in having an efficient grain industry and, of course, that is why the state government is supporting the new terminal at Outer Harbor. It is imperative that our grain growers have the benefit of the lowest cost options to remain competitive in international markets. But, of course, there is really no grain port in this state east of Port Adelaide for the handling of large quantities of grain. The government obviously has an interest but, essentially, these are private players. Of course, we now have a privatised ports handler—Flinders Ports. AusBulk, while it is owned by grain growers, is a private company, and so, of course, is AWB, which also has expressed interest in some of these areas.

The government's ability to influence outcomes can be limited in some cases. Obviously, we were able to influence the outcome in relation to Outer Harbor because, as I said, Outer Harbor is, effectively, the only port in the east of the state. We wish to see a favourable outcome for the grains industry in this state, but we must also be mindful of the fact that it is now a private market and, with private players, obviously, there are some limitations on how far the government can influence that outcome.

The Hon. IAN GILFILLAN: Sir, I have a supplementary question. In the light of the Eyre Peninsula having one deep sea port, does the minister believe that Yorke Peninsula needs three deep sea ports?

The Hon. P. HOLLOWAY: I am not an expert in the economics of ports, and I do not have any information available to me. I think the honourable member's question is largely rhetorical. I guess the honourable member is asking how could it be that one relatively small region of this state could support three large and, presumably, expensive ports. That is a pretty fair question which speaks for itself.

ACCESS CAB SERVICE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question concerning accessible taxis.

Leave granted.

The Hon. A.L. EVANS: The Accessible Taxi Coalition advocates on behalf of disability support organisations and disabled members of the community. Its aim is to improve the service provided by accessible taxis. Membership of the coalition includes: Disability Action, a service that advocates on behalf of 400 disabled people every year; Disability Advocacy and Complaints Service of South Australia; the Disability Information Resource Centres; and the Paraplegic and Quadriplegic Association of South Australia.

Accessible service (or 'access cabs') is a critical service for people with disabilities. I understand that, while some reforms were introduced in 1992, the level of commitment to continue to assess and improve the service has been very poor. The coalition has informed me that the minister has met only once with customer representatives. A request was made in March this year for a further meeting, but the minister has not yet responded.

The coalition is concerned that, while people with disabilities and representative organisations are providing feedback to the government on issues relating to service delivery so that the key performance indicators can be deployed, the government is not keeping stakeholders informed. My questions are:

1. Can the minister advise of the current key performance indicators in the contract between the government and Adelaide Independent Taxis?

2. Can the minister advise when the government will commence publishing key performance indicators for the accessible taxi service?

3. Can the minister advise whether key performance indicators will include statistics on the nature, outcomes, time and resolution of complaints to the customer hotline so that customers can track service delivery improvements in the accessible taxi service? If not, why not?

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

CHRISTIES BEACH HIGH SCHOOL

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for the Southern Suburbs, a question regarding the Christies Beach High School.

Leave granted.

The Hon. T.J. STEPHENS: In a press release dated 30 May 2003, the minister made a series of claims regarding new spending for a variety of areas in the south. He listed education and health services as well as public transport. As this council is well aware, the minister has yet to release a bad news press release or, in fact, make any comment on any crisis in the southern suburbs: they are always the responsibility of another minister. The minister failed to mention in his statement of 30 May what the government's intention is for the land and buildings located at the site formerly known as the Christies Beach High School western campus. My questions are:

1. What are the government's intentions for this land?

2. Will the minister take notice of community requests for the campus oval to be used as a public park?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions to the Minister for the Southern Suburbs and bring back a reply. I would also like the honourable member to name the last minister who put out a bad news press release.

PRISONS, HEALTH SERVICES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, questions regarding funding for prison health services.

Leave granted.

The Hon. J.F. STEFANI: In a report to the Generational Health Review, the South Australian Prison Health System submitted that prisons and remand centres were becoming populated with mentally ill and homeless people who had fallen through the chasms of the mental health system. The South Australian prison health system said that the problem was a direct result of the government's 'truth in sentencing' and 'get tough on crime' policies. On page 171 of the final report of the South Australian Generational Health Review, the chairman of the review team stated:

Funding to prisoners' health services cannot be easily identified and most health service providers do not specifically tag budgets for prison services. The South Australian prison health service and the Department for Correctional Services have budgets of $5.2 million and $240 000 respectively for the year 2003-04. The forensic mental health service has a total budget of $6.5 million for mental health clients and prisoners. The Generational Health Review team was advised that some five beds of the 30-bed mental health facility are used for prisoners. However, detailed resources for prisoners are not clearly identified.

Submissions to the Generational Health Review confirm that the lack of defined budget impacts on the levels of services provided and accessible to prisoners, as well as on the staff development opportunities. The Generational Health Review further noted that the Department for Correctional Services' current budget is $125 000 for community-based health services for people in its community correctional programs. However, when people leave the prison system there is no continuity of health care nor are there programs to assist them to reintegrate into health services in the community.

A submission to the review team indicated that, on release from prison, former inmates are faced with issues of housing and post-community rehabilitation and integration into community life. Most drug overdoses and deaths occur within the first week of release from prison. My questions are

1. What steps has the minister taken to address these important issues?

2. Has the minister consulted with his colleague the Minister for Health to ensure that problems identified in the report are immediately addressed and corrected?

3. Will the minister ensure that mentally-ill prisoners who are incarcerated will receive proper assistance and, if required, are transferred to psychiatric facilities?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his detailed, well researched and well presented question. The questions and the detail cover a range of issues, and highlight a number of deficiencies within our mental health services program. The honourable member is correct in relation to the number of people with mental health programs showing up in the correctional services area that should have been picked up far earlier by community health programs. It is a sorry endorsement on mental health services throughout Australia and not just in South Australia, but it is an emerging problem for all states.

It is on top of the list. The relationship between drug and alcohol abuse, mental health and mental health services is on top of the list for discussion with the correctional services ministers at the next national meeting. The relationship between the health portfolio and the correctional services portfolio, as the honourable member points out, means that some people do fall through the cracks. That is an accurate assessment, and work must be done to try to prevent people finding their way into the correctional services system who should have been identified by general health services within the community. I am sure that the Coroner will have something to say about that in relation to the death in custody in Port Lincoln. However, I will not pre-empt the outcomes of the Coroner's report in relation to that matter.

I will take those important questions to the Minister for Health in another place and bring back a reply but also relay to the honourable member that I have been talking to the Minister for Health in relation to budgets and the way in which Corrections can relate more to bilateral budget processes, so that in the future we can share information and hope that Correctional Services priorities fit in with the health servicing priorities.

MAGISTRATES, RESIDENT

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Attorney-General about resident magistrates.

Leave granted.

The Hon. R.K. SNEATH: I refer the Attorney-General to the Labor Party's pre-election document headed 'Labor's plan to protect South Australians'. That document says that there is a strong public concern regarding having a judiciary that is in touch with community needs and expectations and promised, amongst other things, a pilot program basing a magistrate in Port Augusta—I will show you on a map where that is, opposition—to test whether this increases community confidence in the judicial process.

In October last year the government announced that it would place a resident magistrate in Port Augusta as part of a pilot program. How is that pilot program progressing and what else, if anything, is the government doing to honour its pre-election promise of having a judiciary that is in touch with regional areas and aware of community problems and expectations in regions?

The Hon. P. HOLLOWAY (Attorney-General): It is correct that in July last year the government announced that it would place a resident magistrate in Port Augusta from October 2002 until December 2003 as part of a pilot program. The Courts Administration Authority agreed to base a magistrate in Port Augusta, to test whether that would increase community confidence in the judicial process. The Port Augusta magistrate (Mr Field SM) is resident in the area and handles country court circuits at Coober Pedy, Oodnadatta, Roxby Downs, Leigh Creek and Peterborough. The pilot program has given clear indications that resident magistrates offer substantial benefits to the communities in which they live and work.

Magistrates who are resident in an area come to know it well and are able to apply their local knowledge and experience to dispensing justice that reflects community issues and expectations. Following the success of the pilot program, I announced earlier today that both Mount Gambier and Port Augusta will go in a stipendiary magistrate base. A new court building planned for Port Augusta will have sufficient chambers for two resident magistrates. In addition to magistrates being resident in Port Augusta and Mount Gambier, the government will also offer a resident magistrate's position at Berri when there are adequate court facilities.

Whilst on the subject of the judiciary, I can also advise members that the interview process for the replacement of two other magistrates has continued in recent weeks and I expect to recommend the appropriate candidates to cabinet this month. The government has a strong law and order program that was outlined in its pre-election platform and published as 'Labor's plan to protect South Australians'. The government has made great progress in honouring the policies contained in that document. Fulfilling its promise on resident magistrates is a clear demonstration of that commitment.

PARLIAMENTARY SITTINGS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the minister representing the

Premier a question about the scheduling of parliament during school holidays.

Leave granted.

The Hon. KATE REYNOLDS: For the past two weeks this Legislative Council has sat during a period that coincided with the July school holidays. Many members, electorate staff and parliamentary staff who have school-aged children have expressed to me that it makes an already difficult job unnecessarily harder. South Australia is in the minority when it comes to sitting during school holidays. This year, only the Northern Territory and Tasmanian parliaments have sat during part of their school holidays, with Western Australia, New South Wales Queensland, Victoria, the ACT and even the federal parliament all intentionally scheduling their sitting weeks so they do not clash with school holidays.

While none of the Australian parliaments have definitive guidelines specifying that sittings during school holidays be avoided, the majority of parliaments deliberately schedule their sittings during school terms. With about one third of all current South Australian MPs parenting school-aged children, sitting during school holidays and late night parliamentary sittings undermine family-friendly work practices, which have featured in various ALP policies. My questions are:

1. Will the Premier explain why the second session of the fiftieth parliament was scheduled to sit during the entire school holidays?

2. Did the compact for good government agreed to by the ALP and the member for Hammond in another place play any part in the scheduled sitting of the Legislative Council for both weeks and the House of Assembly for one week of the mid-year school holidays?

3. Will the Premier act to ensure that in the life of this Labor government future sitting weeks do not coincide with school holidays?

4. Does the Premier support the recommendation made in the submission by a number of prominent South Australian women—including my colleague the Hon. Sandra Kanck and myself, academics, policy practitioners, politicians, lawyers, trade unionists and community activists—to the Constitutional Convention that parliament should focus on improving its practices and procedures rather than simply increasing the number of sitting days or hours?

5. Finally, will the government consider the Women in Parliament Select Committee's report regarding the importance to women—and I would suggest men—of having a family friendly environment for parliament?

The Hon. P. HOLLOWAY (Attorney-General): I think the honourable member said in her question that a third of parliamentarians have school-aged children, and as part of that number I have some sympathy for the proposition. It is a matter I have discussed around the corridors of Parliament House with a number of members on other occasions. The question is one for the leader of the house, who sets the times. Part of the problem has been that, when the budget moved from the traditional time in August, when it was often introduced following the federal budget, to around the end of the financial year, with estimates and the need to get the budget through before the end of the session, it creates some difficulties for those of us who are responsible for working out the timetable for the house.

I have had some significant interest in the meeting dates and I note that, fortunately, parliament is not sitting at all during the full fortnight of the October holidays, and I am pleased about that. My colleague, the leader of the house, is well aware of that, and a number of members on this side of the council have certainly put the viewpoint. I do not think that we sat during the holidays earlier this year. There are some difficulties in getting the parliamentary time—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: They have their budgets at different times. I also point out that the previous government created exactly the same problem.

Members interjecting:

The Hon. P. HOLLOWAY: We had exactly the same problem under the previous government. If one has six weeks of holidays on three different occasions, it is not easy to frame a parliamentary program around that. There were also conferences involving presiding members during this time.

Members interjecting:

The Hon. P. HOLLOWAY: These are national and international annual conferences which take time. I know that the leader of the house is aware of this problem, and I am certainly aware of it. We have missed at least two groups of school holidays this year. Unfortunately, it is always a problem at this time of the year, but hopefully next year we will be able to find a solution to this problem. However, I repeat that it was a problem that the previous government also had significant difficulty with.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: You did not handle it at all. I remember on many occasions during the past eight years that school holidays coincided with parliamentary sittings. I conclude by making the comment that this parliament also has a responsibility to all the people of this state, and our first priority should be getting our legislative program through.

The Hon. KATE REYNOLDS: I have a supplementary question. Can that answer be provided in language appropriate to primary and secondary school students and circulated to all the sons and daughters of members and staff?

The Hon. R.D. LAWSON: I have a further supplementary question. Will the Attorney, as Leader of the Government in this council, ensure that in future the Leader of the Government in another place does not dictate that we in this council sit for all of the school holidays?

The Hon. P. HOLLOWAY: Obviously the timing of the two houses needs to be coordinated and I will discuss this with my colleague, as I already do, when the timetables are worked out.

The Hon. A.J. REDFORD: I also have a supplementary question. Will the minister ask the Premier to apologise to my children next time he sees them wandering around this building?

LOTTERIES

The Hon. NICK XENOPHON: My questions to the Minister for Agriculture, Food and Fisheries, representing the Deputy Premier, are as follows:

1. How many minor lotteries have been conducted during the last financial year?

2. How much money was spent on such lotteries?

3. What mechanisms are in place to ensure compliance in respect of the legislation for such lotteries?

4. What resources exist to ensure compliance?

5. How many of the minor lotteries referred to are subject to spot audits?

6. Can the minister advise when was the last time there was a prosecution for any breaches of legislation or regulations in relation to minor lotteries in this state?

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.

TAXATION, PROPERTY

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, a question regarding stamp duty on property sales and land tax.

Leave granted.

The Hon. J.M.A. LENSINK: Excessive taxation places a heavy burden on our community and the economy in general. An active property market is essential in providing employment in the building industry and other related trades. Excessive property taxes will particularly harm low and middle income earners in terms of their ability to purchase property, and may have the effect of depressing the market in the medium to long term. For instance, some younger people who are part of the generation that has already been forced to pay more for their own health and education—which I do not disagree with; but I just remind the baby boomers of that point—may have missed the boat of purchasing property before the recent property boom, with their only option being to pay other people's mortgages through rent.

Young families needing more space may be forced to make do with their existing small property because they cannot afford to upgrade. Older people, who are providing for their own retirement, also suffer disadvantage because these taxes are a cost that will come out of their income, regardless of whether they hold equity in a property trust or whether they derive income by renting out investment properties. Under budget figures released by the Rann government, a $222 000 property, which is the current median price, financed by a $200 000 mortgage, will incur stamp duty on the conveyance and mortgage duties of approximately $7 700 and approximately $700 respectively. This is a total of about $8 500, which more than removes any relief provided for first homeowners through the federal government's first homeowner grant. The Treasurer's own budget papers advise that land taxes in South Australia this year will rise by almost $30 million to $186.6 million, a staggering increase of more than 15 per cent. My questions for the minister are:

1. Will the government support the removal of stamp duty when it is reviewed, as part of the GST deal by the Council of Australian Governments, in 2004-05?

2. Does the government intend providing any relief, by taking a little less with its left hand from what the federal government provides with its right hand through the first homeowners grant?

3. Is the government doing anything in the interests of young and older South Australians providing for their own future by addressing the widening affordability gap aggravated by state property taxes and stamp duties?

4. Could the government outline what specific services, if any, revenue from property taxes are used to fund?

5. What will the government do to prevent property taxes from potentially stagnating the South Australian housing market and dealing a crippling blow to the state's economy?

6. How can the government justify an increase in land taxes at a rate well above the rate of inflation?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Treasurer, but I would just make some comment, particularly in relation to the latter question. If the income that the state receives as a consequence of property taxes increase, it is due to either an increase in the number of properties that are sold or, alternatively, and most importantly, an increase in the value of properties. So, essentially, the reason why there has been a significant increase in stamp duties in recent times is the rapid increase in the value of properties.

It is an interesting economic argument, but I think one could say that, even if one were to remove duties altogether, it is likely that the value of that tax would soon become capitalised into the value of the property anyway. After all, I think most economists would conclude that people pay to their capacity in relation to housing and, of course, stamp duty is built into the price of property. I will refer those questions to the Treasurer, who has responsibility for these matters, and bring back a response.

PLANT FUNCTIONAL GENOMICS CENTRE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on the Plant Functional Genomics Centre.

Leave granted.

The Hon. CARMEL ZOLLO: In May 2002, the University of Adelaide was successful in its bid for the Australian Plant Functional Genomics Centre to be based at the Waite Plant Bioscience subprecinct. The commonwealth, through the Australian Research Council and the Grains Research and Development Corporation, will provide $20 million over five years and the South Australian government $12 million. Can the minister advise the chamber of the benefits to be achieved from the state's investment in this area and the current stage of development of the Plant Functional Genomics Centre?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the member for her question and her ongoing interest in this matter. The benefits of the initiative are important for South Australia and will result in employment for an estimated 98 new science and technology graduates and post-graduates at the Waite Institute. It will consolidate the Waite as a world-leading national and international centre for plant technology, building depth in the agriculture biotechnology research base already established at the Waite by attracting additional pre-eminent plant scientists, and I have had the opportunity to meet at least one of the eminent new plant scientists who will be appointed.

It will also establish a global profile for the Waite in the emerging field of plant proteomics, which is gene function analysis at the protein level. The centre will address the delivery of outcomes to meet the large national and international demand for improved plant tolerance in harsh agricultural environments. Construction has already commenced and the building is expected to be commissioned in the first half of 2004.

HENLEY HIGH SCHOOL

The Hon. D.W. RIDGWAY: I wish to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, a question about Henley High School.

Leave granted.

The Hon. D.W. RIDGWAY: Henley High School is one of the important schools in our western suburbs. I noticed with interest an article in the *Advertiser* of Monday 9 June which highlighted that the school was attended by a number of very important people in South Australia, including the Labor Party's Jay Weatherill, John Rau, Paul Caica, Greens MP Kris Hanna, as well as Liberal Wayne Matthew, and Democrat Kate Reynolds, along with Bronwyn Hurrell, the author of the article.

I think it is a disgrace that, after 45 years, one of the state's best public schools is still waiting for permanent fixtures to replace the temporary classrooms. The school received a letter (and I go on from another article in the *Advertiser*, and I also have a copy of the letter) from the former education minister (Hon. Malcolm Buckby) in which he stated that Henley High School would be included in the 2003-04 capital investment program. The letter states that, after the 2003-04 budget in May 2003, the school would be contacted to discuss the $4.8 million project. But this did not occur.

I bring the council's attention to comments made by the Hon. Terry Cameron yesterday in his Appropriation Bill speech. He said:

> Six of the state's key marginal keys seats are winners in this year's major school upgrades: three marginal Liberal seats, which just happen to be the ones the government wants to win at the next state election. . .

He then said:

> One can only conclude that the education of our children has been sold out in the quest for preferences and votes. It is exactly this kind of behaviour, this pork barrelling, that sticks in the craw of ordinary people. . .

The member for Colton (Paul Caica) said that he would meet with the school and take up the issue with the education minister, Trish White. My questions are:

1. Has the minister had a representation from the member for Colton?

2. Will the minister concede that the 40-year old sinking prefabricated buildings are not good enough for this very important western suburbs school?

3. When can the local community expect the reinstatement of the $4.8 million promised by the former Liberal government?

Members interjecting:

The PRESIDENT: Order! The council will come to order. I hope I did not hear what I thought I heard. If it had been in a contribution, retribution would have been wreaked upon the member. Interjections being out of order, I did not hear it correctly. My hearing fluctuates from time to time.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I am certainly aware of the eminence of Henley High School in the western suburbs—it has not been quite as eminent as Brighton High School. Nevertheless, it is, I am sure, a school that has produced some very eminent people. I will pass on the question to the Minister for Education and Children's Services and bring back a reply.

REPLIES TO QUESTIONS

CHILD ABUSE

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

In reply to **Hon. NICK XENOPHON** (15 July).

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

1. Can the Minister advise when I can expect to receive a formal response to the question on child abuse asked on 22 August 2002?

2. Can the Minister provide a brief explanation, giving reasons for the unreasonable delay?

3. As a further supplementary question, what steps were taken by the minister's office to include an explanation, as the honourable member has asked himself, as to what happened that has caused such a delay in replying?

The answer to the questions have now been tabled.

There was a lengthy delay in responding to the questions. Some time was initially spent clarifying what statistics were available to answer the questions. My Office was also contacted by a representative of the community group to whom the Honourable A.L Evans referred when he originally asked his questions. My Office has had a number of meetings with that representative to ensure that the answer to the questions, when tabled, would address, as much as possible, the issues that the group had raised.

Nevertheless, the delay in tabling the response was much longer than necessary and I apologise for the delay.

LOCAL GOVERNMENT SUPERANNUATION SCHEME

In reply to **Hon. T.G. CAMERON** (5 June).

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

1. The Report on the Actuarial Investigation of the Local Government Superannuation Scheme as at 30 June 2002 was tabled in Parliament 13 May 2003.

2. No, on the basis that there has recently been an actuarial report and an independent audit report by the Auditor-General for the 2001-2002 financial year.

3. It is understood that the Board has been paying attention to the advice of Mercer Human Resource Consulting. However this company is primarily employed as the Scheme's administrator to provide administration services. Investment advice was sought in 2000 from a subsidiary, Mercer Investment Consulting, resulting in a currency overlay manager being appointed to contain the risk of adverse currency movement in respect of the Scheme's exposure to overseas equities.

4. It is a matter for the Board, not the Minister for Local Government, to consider such matters, make informed decisions and to be answerable to its members for these decisions.

5. No.

CROWN LAND

In reply to **Hon. D.W. RIDGWAY** (5 June).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. He has indicated in the other place that the Bill has not yet been debated because the matter has been before a Select Committee which only finally resolved the issues before it on Monday 2 June. The issue as to whether it can be dealt with before September is a matter of practicality: there are few sitting days left before September and it may not be possible to have the matter dealt with, particularly in the knowledge that many members wish to speak to the Bill.

2. Legislation will not substantially change the arrangements in place as many of the elements in the offer are matters of policy that do not need to be dealt with by legislation. All lessees have been advised of the details of the offer and are being sent details of the improved offer including a Review Panel (for which legislation is not required). The Bill reflects the Government's intent, and lessees are being advised of that intent. However, it is the Parliament's prerogative to consider the Bill.

QUEEN ELIZABETH HOSPITAL

In reply to **Hon. J.F. STEFANI** (5 June).

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

1. The Queen Elizabeth Hospital (TQEH) has a hospital disaster plan to cater for disasters and major incidents. In addition, the Department of Human Services (DHS) is coordinating the finalisation of a framework for a specific chemical, biological or radiological (CBR) hospital sub-plan, based on the Royal Adelaide Hospital (RAH) framework. The Government has also placed great emphasis on identifying critical infrastructure that may present a potential hazard, particularly those structures that might be threatened by terrorist acts, and on reviewing plans to protect it.

There has been significant health system involvement in further developing and refining systemic responses to major incidents, such as a major chemical, biological or radiation emergencies. Recently, DHS, in conjunction with the RAH, fire, police, ambulance and emergency services, conducted a major exercise entitled 'Supreme Truth' to test the response of emergency services and the public hospital system to a bio-terrorism event involving mass casualties. The outcomes are being evaluated in order to further improve the response to such an event.

Several representatives from TQEH attended this event as observers, to inform the development of their CBR Plan for TQEH. It is proposed to have further test exercises over the next several months, and to involve TQEH in those activities. DHS will continue to work collaboratively with the hospitals to further develop, refine and optimise their capability to respond to major emergencies.

2. In addition to the information above, the Government is in the process of installing a Decontamination Unit at TQEH so that it will have the facilities to respond in a similar way to the Royal Adelaide Hospital.

3. Preliminary planning for Stage 2/3 will shortly commence, with the development of a planning framework and appointment of consultants.

LOCAL GOVERNMENT FUNDING

In reply to **Hon. KATE REYNOLDS** (4 June).

The Hon. T.G. ROBERTS: The Minister for Local Government has advised:

1. [Q 1. on Septic Tank Effluent Disposal Schemes (STEDS)—information to be sought from the Minister for Administrative Services, the Hon Jay Weatherill].

2. [Q 2. on Roads Funding—information to be sought from the Minister for Transport, Hon Michael Wright].

3. The State Government's approach to working with Local Government is built on treating the Local Government sector with respect and as a partner in the development of this State. The Government seeks to work cooperatively with Local Government to identify issues of mutual interest for resolution on a practical and realistic basis.

The Minister's Local Government Forum, established by this Government, is one means of implementing this approach, and has recently assisted with developing a shared approach to the long standing issue of stormwater management and flood mitigation, for example. As a result, significantly increased State funding has been allocated for the next four years to address stormwater management and flood mitigation priorities, with significant Local Government funding to be contributed to this joint endeavour.

With all levels of government facing significant challenges to fund community priorities in a fiscally responsible way, the Government believes it is important to ensure that clear and comprehensive financial information is available as a basis for effective State/Local Government discussion and action. As part of the recent Budget process:

- The Local Government Association was provided with comprehensive information on the State Budget brought down on 29 May 2003 as it relates to Local Government;
- On Budget day a letter from the Minister for Local Government summarising relevant information went to the President of the Local Government Association and was then distributed to all councils;
- A detailed post-Budget briefing was provided by the Minister for Local Government to the President and Executive Director of the Local Government Association on 4 June—the Minister for Environment and Conservation, the Minister for Urban Development and Planning, and the Chief Executive of the Department of Transport and Urban Planning also attended;
- The Treasurer's Budget Statement included a new section drawing together and analysing information on the finances of all councils and a table setting out specific purpose payments from State to Local Government.

In addition, the recently announced report of the Economic Development Board has recommended a more coordinated and collaborative Statewide approach to the development of the State. This will involve State and Local Government working together to maximise the return on the limited financial resources available to each sphere of government.

These measures are a clear indication of the intentions of the Minister for Local Government and the Government to build a strong working relationship with Local Government so that both sectors are working in the same direction for the benefit of South Australian communities.

CHILD ABUSE

In reply to **Hon. A.L. EVANS** (22 August 2002).

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

1. Will the minister confirm whether statistics are collected for categories such as biological mother/father, adoptive mother/father, step-parent, de facto mother/father, grandmother/grandfather, uncle/aunt? If so, are these statistics being released to the community upon request? If not, why not?

Information relating to child abuse and neglect is collected primarily for the purpose of case planning and providing support services to families. Statistical information is also gathered for services planning, and reporting to national data collections, such as the Australian Institute of Health and Welfare's (AIHW) Child Protection Australia annual report. For the purpose of the national report, statistics are collected on the relationship of the child to the person believed responsible for the abuse and neglect. The categories are as follows:

- Natural parent
- Step-parent
- De facto step-parent
- Sibling
- Other relative/kin
- Foster parent
- Friend/neighbour
- Other

Any person is able to access these statistics, published nationally, by accessing the Child Protection Australia report that is released around April of each year, or by accessing the Australian Institute of Health and Welfare's web-site (www.aihw.gov.au).

2. Does the minister provide to the community the statistics on the sex of the perpetrator of child abuse? If not, why not?

Statistics relating to child abuse and neglect in the South Australian community are made available to the community through the Australian Institute of Health and Welfare's annual report "Child Protection Australia". This publication reports on child abuse and neglect in all Australian jurisdictions but does not generally contain statistics on the sex of the person considered to be the perpetrator of abuse.

The report does provide statistical data relating to incidence of child abuse and neglect, the numbers and rates of children who are placed under protective orders, and the numbers and rates of children who are in out-of-home care.

Demographic data is also provided, that is, the age and gender of children and young people, and the proportion who are Indigenous.

The primary focus of the national report is on the children subjected to abuse and neglect, rather than on persons considered responsible. With the exception of two tables, one reporting on household type, and the other on the relationship of the person considered responsible for the abuse to the child, all of the statistics reported relate to subject children.

The Australian Institute of Health and Welfare did include information on the sex of the person considered responsible in their 1994-95 report. The information was not included in subsequent reports because of data quality issues:

- not all States collected or reported that information
- some States included in their statistics abuse which occurred outside of the family setting, while a number of States did not, leading to data which was not comparable across jurisdictions.

For these reasons, the AIHW stopped reporting the sex of the person considered responsible for abuse.

There is data collected in this State, which identifies the gender of the person considered primarily responsible for instances of child abuse or neglect. That data does not have the quality assurance processes that would generally be expected of reports that are to be published. That is because the data is designed for use in case planning and to assist in targeting support.

The data on the gender of the person considered responsible for abuse and neglect for South Australia is set out below. This data is drawn from Family and Youth Services information systems, and does not include statistics on child abuse allegations that have been investigated by Police. That is, these statistics largely relate to child abuse and neglect which occurs within the family setting.

This information shows that the gender of the person considered responsible in the different categories of abuse is as follows:

· Physical Abuse:	Male	56.5%
·	Female	43.5%
· Sexual Abuse:	Male	91.4%
	Female	8.6%
· Emotional Abuse:	Male	63.6%
	Female	36.4%
· Neglect	Male	19.8%
	Female	80.2%

The statistics on neglect include both two-parent and single-parent households. The data system requires only one person to be 'considered responsible', with workers being required to record the primary caregiver. This has the tendency to inflate the statistics on females.

3. Of the categories reported, does the minister collect data on the rates of child abuse in relation to the type of family living arrangements, such as single parent household headed by the mother, single parent household headed by the father, step-parent family, adoptive family? If not, why not?

For the purposes of the AIHW National Report, statistics are collected for the following types of family in which the child was residing at the time the abuse or neglect occurred:

· Two parent natural
· Two parent step/blended
· Single parent female
· Single parent male
· Other relatives/kin
· Foster
· Other

As described above, statistics that are published nationally are accessible by any person in the community.

SPEED LIMITS

In reply to **Hon. T.G. CAMERON** (29 May).

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

Will the Minister provide the Council with any local or Australian research which indicates that slow drivers on main highways are a contributing factor in motor vehicle accidents and deaths?

I am not aware of any South Australian or national research indicating that slow drivers on main highways are a contributing factor in motor vehicle accidents and deaths.

FERAL OLIVES

In reply to **Hon. J.F. STEFANI** (15 May).

The Hon. T.G. ROBERTS: The Minister for Minister for Environment and Conservation has advised:

The Minister is aware of the several reports presented to Parliament last year that have relevance to the issue of feral olives in the Hills Face Zone. These were taken into account in the recent decision to form an executive level taskforce to address the issue.

SCHOOL CROSSINGS

In reply to **Hon. T.G. CAMERON** (27 May).

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

1. Will the minister direct the Department of Transport to immediately investigate the road crossing dangers of the six schools referred to and, if required, undertake to make any changes necessary to ensure student safety?

Parafield Gardens High School, Christies Beach High School and Mercedes College directly abut roads under the care, control and management of the Commissioner of Highways. The Dover Gardens Primary School, Munno Para Primary School and Glenunga High School are bordered by local streets that come under the care, control and management of the City of Holdfast Bay, City of Playford and City of Burnside respectively.

Transport SA will review pedestrian safety on Salisbury Highway, adjacent to the Parafield Gardens High School; Beach Road, adjacent to both campuses of the Christies Beach High School; and Fullarton Road, adjacent to Mercedes College.

In relation to the schools that are bordered by council roads, Transport SA has contacted each council to request a review of the school zones and crossing facilities on the roads within their respective areas.

2. Will the minister also undertake to write to the principals of the six schools to inform them of the results of the investigation, and of any remedial action that is to be taken?

Once the outcome of the reviews conducted by Transport SA is known, Transport SA will consult with each local council and school regarding any possible pedestrian safety improvements.

In relation to the schools on council roads, each council has been asked to liaise with the relevant school on the results of the review and any proposed remedial action.

PUBLIC TRANSPORT, SMART STOPS

In reply to **Hon. DIANA LAIDLAW** (14 May).

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

Can the minister indicate that the briefing note from which he has just read, prepared by the Minister for Transport, deliberately left out the fact that the former Liberal government called that contract and that this government did not, fortunately, pull out of proceeding with that contract.

The question asked in the Legislative Council on 14 May 2003 was about the commencement of the Smart Stops trial. The response focused on the commencement of the trial and the benefits of the Smart Stops system.

The Government is aware that the former Government commenced the process to develop Smart Stops.

SOUTH-EAST WATER LICENCES

In reply to **Hon. A.J. REDFORD** (12 May).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. Officers of the Minister's department provide advice to members of the public in good faith. Obviously every attempt should be made by both parties to ensure all relevant issues are clearly understood.

2. I am advised that the application was rejected because the relevant water allocation plan did not allow for the allocation of additional water for irrigation purposes.

3. The business community can be confident that the information and advice provided by officers of the Minister's department is based on the best information available at the time.

4. The Minister is unable to comment on this due to the possibility of further litigation.

5. The matter has already been investigated.

6. This question has been dealt with under 4 above.

BRANCHED BROOMRAPE

In reply to **Hon. CAROLINE SCHAEFER** (1 May).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. Eradication of a weed requires the destruction of the seed bank as well as the living plant. Fumigation, using methyl bromide gas, is a proven method to destroy branched broomrape seeds in the soil and as a result, is an essential component of the program to totally eradicate branched broomrape. Methylbromide is commonly used in agriculture to sterilise soil before crops are planted.

Herbicides also form a critical part of the eradication strategy as they are used to control host plants. The control of host plants prevents the emergence of known infestations and in turn, the contribution of further seed to the soil seed bank.

2. The current funding arrangement does not vary from the Government's 2003-2004 budgeted position.

3. Methylbromide gas quickly dissipates after application and is widely used in horticultural industries to sterilise soil before crops are planted. As the vast majority of infested sites are located on productive farmland, fumigated sites will be included in the farmer's usual cropping rotation once fumigation is complete. Experience shows that sites actively managed in this way are much less likely to be re-infested at a later stage. In the event that conditions are not suitable to grow crops to maturity immediately after fumigation, a quick growing cover crop can be established that will prevent soil drift in the interim. The Branched Broomrape Eradication Program is working with landholders to share the costs of establishing cover crops where necessary.

The Native Vegetation Council has been consulted to develop a rehabilitation plan for roadsides. A consultant has already been engaged to rehabilitate all fumigated land adjacent to roadsides.

Once seasonal conditions improve, native grasses will be established to prevent soil erosion.

BRIGHTON RAILWAY STATION

In reply to **Hon. T.G. CAMERON** (1 May).

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

1. Why was wheelchair accessibility not taken into consideration when the Brighton Railway Station was redesigned by Transport SA?

The scope of works for Brighton Railway Station was to improve the car parking and bus interchange facilities adjacent to the railway station as part of the Park 'n' Ride program. Part of this work included the provision of accessible parking within the car park.

The provision of wheelchair access along the footpaths adjacent to the Railway Station is the responsibility of local government, in this case, the City of Holdfast Bay.

2. Will the Minister ask the Passenger Transport Board to make any necessary changes so that it is accessible by wheelchairs?

Following representations to Council, the station is now wheelchair accessible as a result of the construction of cross overs on both sides of Cedar Avenue, both north and south of the bus interchange, as well as at the junction of Leader Avenue and Commercial Road with Edwards Street. This work was completed in mid December 2002.

3. Have any wheelchair accessibility studies been conducted on Adelaide's metropolitan railway system? If so, how many stations are currently up to standard? If not, will the PTB undertake such a study and implement its findings?

The Passenger Transport Board (PTB) has called for expressions of interest for an accessibility audit of the Adelaide Metro network. The audit is expected to identify where further improvements to accessible infrastructure will be needed. Currently, all works undertaken by the PTB include provision to upgrade infrastructure to the required accessibility standards.

DRIVERS' LICENCES

In reply to **Hon. A.L. EVANS** (30 April).

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

Given the high number of South Australian drivers who have been issued with fines for driving vehicles as unregistered drivers, will the Minister consider providing the options of the various licence periods with their corresponding fees on the front of the renewal of the driver's licence form? If not, why not?

Applicants for the renewal of a driver's licence are provided with the option to obtain the licence for periods from one to ten years. Currently the ten year licence period and fee is displayed on the application for renewal of the driver's licence.

However, the driver's licence renewal form contains information on the front and rear of the form informing the licence holder that optional licence periods are available. A pamphlet entitled "Important Information for Licence Holders" is also included with the application for renewal that explains that the licence holder may renew for a period other than ten years.

The reason all the licence periods and associated fees are not currently printed on the renewal form is due to limitations in the space available. The application for renewal includes a number of questions relating to the person's fitness to hold a driver's licence and, although ideally both should be included, it is considered that the information relating to the person's fitness to hold a driver's licence is of greater importance than listing the individual yearly period and fee.

TRANSPORT SA

In reply to **Hon. DIANA LAIDLAW** (29 April).

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

1. When did he receive from Transport SA the business efficiency proposals?

As Minister for Transport I first received notification of the Business Efficiency Program on 18 April 2002. The Business Efficiency Program is the framework that guides Transport SA's approach to delivering services as efficiently as possible. The Program commenced in July 2001. On 28 May 2002 I was briefed by the former Executive Director, Transport SA, on the Business Efficiency Program and one of the core projects within the Program, the implementation of proposed changes to corporate support services for the Agency. This briefing included the potential staffing impact.

2. Why did he not agree that all such proposals for savings be reinvested by Transport SA and not be regarded as cuts to budgets and jobs?

The Budget Statement 2002-03 presented by the Honourable Kevin Foley MP, Deputy Premier and Treasurer of South Australia, on the occasion of the budgets for 2002-03, highlighted the need to overcome a series of unfunded liabilities created by the previous Government. Transport SA, along with other Departments, was expected to play its part in rectifying the position.

3. Did he agree to all savings proposals? Did he reject any or amend some?

4. Notwithstanding the facts of this matter, does he intend to persist in blaming me for something that he is clearly responsible for delivering, in terms of budget cuts not efficiency dividends to be reinvested as savings?

The Business Efficiency savings have been reapplied to addressing the alarming deterioration in South Australia's road safety performance. Several savings proposals have been rejected by me, principally in the areas of service delivery. I have supported the drive to improve the efficiency of back-office productivity where Transport SA's performance is well behind commonly accepted cost-efficiency standards.

SOUTHERN SUBURBS

In reply to **Hon. T.J. STEPHENS** (29 April).

The Hon. T.G. ROBERTS: The Minister for the Southern Suburbs has advised:

In response to a letter from the City of Onkaparinga, I asked Tim O'Loughlin, Chief Executive of the Department of Transport and Urban Planning to convene a meeting of Senior Officers from relevant Government agencies to discuss infrastructure issues in the Southern Suburbs. That meeting has occurred and included representatives from:

Department of Human Services;
Department of Business, Manufacturing and Trade;
Department of Administrative and Information Services;
Department of Justice;
SA Water;
Planning SA; and
Office of the Southern Suburbs.

The Department of Education and Children's Services were not represented at the meeting but will be involved in a whole of Government approach to the issue.

As a result of the meeting Planning SA are developing some projections for development in the area. Further meetings will be convened to ensure a co-ordinated approach to the issue is adopted.

RIDER SAFE PROGRAM

In reply to **Hon. T.G. CAMERON** (31 March).

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

1. Have any studies or proposals been considered to offer a similar educational program for motor vehicle drivers? If so, what would this involve and how much is it estimated it may cost individual drivers?

In South Australia there has not been any studies or proposals considered by Government requiring learner car drivers to undertake off-street training similar to that provided by the Rider Safe program to learner motorcycle riders.

2. If not, will the Minister ask his department to consider such a proposal?

Prior to May 1987, learner motorcycle riders were only required to pass a theory examination to obtain a learner's permit, which then allowed the learner to ride on the roads without supervision or prior training. The learner rider did not have to receive on-road tuition and instruction on correct procedures for motorcycle control and defensive riding skills. The learning process was in effect a trial and error learning system, which put the learner rider at considerable risk of a crash while the required level of rider experience and expertise was gained.

In comparison, a learner car driver is not exposed to such instructional deficiencies and similar levels of crash risk. A learner driver is, at all times, required to be under the supervision of an instructor or other suitably licensed driver. The learner driver has immediate access to advice from the supervisor, and in the event of

a crash, is much better protected by the car body than is the case for an unprotected motorcycle rider.

Given the obvious differences between motorcycles and cars, and that the existing, highly regarded learning systems are individually tailored for the environment of each vehicle in question, the Government does not consider that the introduction of a program like Rider Safe for car drivers is warranted at this time.

SPEED LIMITS

In reply to **Hon. J.F. STEFANI** (31 March).

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

1. Will the minister provide a breakdown of the areas where all fatalities occurred last year?

Of the 154 fatalities that occurred in South Australia for 2002:

- 55 occurred in the Adelaide metropolitan area (40 of these in areas zoned at 60km/h)
- 99 occurred in rural areas (11 of these in areas zoned at 60km/h)

2. Will the minister also provide a breakdown of the areas where serious motor vehicle accidents occurred during last year?

Preliminary figures show that there were 1538 serious injuries in South Australia during 2002. Of these:

- 757 occurred in the Adelaide metropolitan area (563 of these in areas zoned at 60km/h)
- 781 occurred in rural areas (191 of these in areas zoned at 60 km/h)

3. Does the minister believe that the lowering of the speed limit on Adelaide's metropolitan roads will reduce the number of serious accidents and fatalities?

The adoption of a 50 km/h speed limit in New South Wales has resulted in a 25 per cent saving in road crashes on the affected streets. An evaluation of the recent introduction of a 50km/h limit in Victoria showed there had been a 13 per cent reduction in serious casualty crashes involving all users on the affected streets, and 46 per cent fewer serious injury crashes involving pedestrians. Based on this research, the saving in fatalities and serious injuries in South Australia is expected to be around 50 per annum, or one a week.

MOUNT BARKER

In reply to **Hon. SANDRA KANCK** (28 May).

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

1. Will the Minister fund a freeway interchange near the existing Bald Hills Road overpass; if not, why not?

The Department of Transport and Urban Planning undertook a study in 2001 to investigate the need for additional access on the South Eastern Freeway from/to Mount Barker. The study found, among other things, that:

- The Freeway interchange at Mount Barker is operating at a satisfactory level of service.
- The predicted traffic and population growth in the Mount Barker area shows that the capacity of the present Mount Barker interchange is adequate for Mount Barker's needs for the foreseeable future.
- Adelaide Road through Mount Barker has relatively little congestion, is operating at a good level of service and has sufficient capacity to cater for future growth without major improvements.
- It is likely that problems being experienced in the Mount Barker area are due to congestion on the local feeder roads onto Adelaide Road, associated with recent residential developments to the east of the railway line.

An indicative cost at the time to construct an off and on ramp was approximately $1.5 million.

Since that time the completion of the upgrading of the Monarto interchange in May this year has provided an opportunity to provide an effective north-south corridor between the Barossa and Langhorne Creek. Once implemented, the corridor should reduce the movement of freight vehicles through Mount Barker and the many townships to the north throughout the Adelaide Hills.

From a total network perspective, an access at Bald Hills Road would only serve to undermine the strategy to encourage freight movements from the Langhorne Creek area away from the Mount Barker area.

For these reasons, the freeway connection is not supported by the Government.

It is understood that the District Council of Mount Barker is currently undertaking a number of strategic planning and investigation initiatives, including a Community Strategic Plan, District Wide Residential and Industrial Land study and formulating a Transport Master Plan. It is considered that this work will address the current issue of congestion on the local feeder roads.

2. Will the Minister require an additional 6.00 p.m. complete express bus service to be scheduled from Adelaide to Mount Barker; if not, why not?

After 5.20 p.m. on weekdays, Mount Barker is well served by limited-stop bus services departing the City at 5.30, 5.50 and 6.25 p.m., then by all-stops bus services departing the City at 7.23, 8.23 and 10.33 p.m. Given the distance of Mount Barker from Adelaide, the various demands for additional services throughout Adelaide, and the limited funding available for extra services, the current timetable after 5.20 p.m. is considered adequate.

WATER SUPPLY, EYRE PENINSULA

In reply to **Hon. D.W. RIDGWAY** (27 May).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. A response to your earlier questions has now been provided.

2. The Department of Water, Land and Biodiversity Conservation (DWLBC) has other staff on Eyre Peninsula who are employed through Rural Solutions SA. There is the potential for water resource management work to be undertaken by these employees.

There is also an opportunity for the DWLBC, the Eyre Peninsula Natural Resource Management Group and the Eyre Peninsula Catchment Water Management Board to work together collaboratively through the NRM Planning and Investment Strategy process to secure funding for additional staff if this is considered necessary.

BICYCLES

In reply to **Hon. DIANA LAIDLAW** (26 March).

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

1. How many more carriages are to be added to each train, at what times, on what lines and at what cost to cater for the increasing popularity of cycling in our community?

As part of a trial initiated by TransAdelaide, one carriage has been added to each train, between 10 a.m. and 4 pm on the Belair line on weekends. This has incurred an extra $756 per day plus an extra two Passenger Service Assistants have been rostered to assist with loadings, at a further cost of $1,040 per day. In addition, as a short term measure to assist orderly loading and unloading of bikes and to ensure safe conduct on the rail platform, security guards have been utilised at a cost of $500 per day.

2. What is the cost of a proposal to convert other carriages to bike only?

TransAdelaide has two classes of railcar, model 2000/2100 and model 3000/3100 of which the latter are more recently built. All of the 3000/3100's are needed to carry full capacity at peak, therefore, they cannot be converted to carry bikes only.

TransAdelaide has a small number of 2000/2100 class cars which are currently not utilised because they require some refurbishment. TransAdelaide is presently evaluating converting one of these to a complete bike carrier and while final costs are still being estimated, it is not expected to be less than $100,000. To run this as an additional service at weekends to cater for additional bikes would involve a recurrent cost of approximately $70,000 per annum.

3. When will a decision be made on whether to progress this initiative?

Upon completion of this trial TransAdelaide will, if appropriate, submit a proposal to the Passenger Transport Board for consideration of the additional recurrent cost, and to the Minister for Transport for the required capital cost.

4. Does the government propose to endorse a cycling strategy, updated to 2006, that I authorised the state cycling council to prepare and, if so, when?

I have received the revised draft cycling strategy and consider it to be congruent with this government's aims in relation to cycling. However, I will not be making any decisions in relation to how the draft cycling strategy contents will be used until the State's Transport Plan, which will include cycling, is finalised.

5. Does the government plan to introduce free travel for bikes at all times on all lines and, if so, when?

The government does not plan to introduce free travel for bikes at all times. The current arrangements are considered appropriate. Passengers with a bike are required to purchase a single trip concession ticket for bike travel during peak times. Bicycles travel for free during the off peak period between 9 a.m. and 3 p.m.

TRANSPORT SA, REGIONAL STAFF

In reply to **Hon. T.J. STEPHENS** (19 March).

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

1. Where are the regional impact statements?

Regional Impact Statements were not prepared by Transport SA.

2. Who consulted the community at Crystal Brook, Port Augusta and Mount Barker (should read Murray Bridge)?

Community consultation has not been undertaken.

3. Will the Minister advise the Council why regional impact statements were not undertaken prior to the cutting of regional Transport SA staff?

The decision to proceed with efficiencies in the support services area was made in the context of the 2002-03 Budget.

B-TRIPLE ROAD TRAINS

In reply to **Hon T.G. CAMERON** (19 March).

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

1. Is the government considering allowing B-triple road trains to use highways in South Australia, including the Sturt Highway and outer Adelaide industrial areas, and when will a decision be made?

B-Triple combinations have been in operation in South Australia for the past seven years on a limited route network. The existing route network includes the gazetted Double Road Train network on Eyre Peninsula and in the Far North, the Port Augusta-Port Wakefield Road and Port Wakefield Road south to Two Wells. Transport SA is not currently considering any expansion of the B-Triple route network, including the Sturt Highway and the outer Adelaide industrial areas.

2. Will any studies be conducted in order to ascertain the impact of B-triples on the safety of other road users and pedestrians and the wear and tear on these roads; and, if such a study has been conducted, can a copy of any report be made available to my office?

Should a decision be made to consider the expansion of the B-Triple route network, Transport SA will undertake an impact study aimed at protecting the public and the road system, while assessing the benefits that may result from commercial transport operations of this type.

PRISONS, DRUG USE

In reply to **Hon. R.D. LAWSON** (19 March).

The Hon. T.G. ROBERTS: I advise the following:

1. Whilst the Department for Correctional Services does not keep records of the number of people prosecuted for attempting to introduce drugs into prison, it does have records that show that, in the calendar year 2000, 8 people were arrested and charged with attempting to introduce drugs into prison compared to 68 in 2001 and 40 in 2002.

It is interesting to note that the increased number of charges coincided with the establishment of the Department's Intelligence and Investigations Unit that I am pleased to say, has been a great success.

I am advised that a number of those who have been charged are still to go before the courts.

2. No records are kept of the results of the charges laid by SAPOL on behalf of the Department for Correctional Services.

3. Departmental records indicate that 167 prisoners have been charged internally through the Department for Correctional Services' disciplinary processes for possession, use of or trafficking of drugs during that period.

4. The person to whom Mr Power referred, pleaded guilty to the offence of Possession of Methylamphetamine for supply. She was sentenced to two years imprisonment, with a non parole period of 12 months, to be suspended upon her entering into a bond of $500 to be of good behaviour for two years.

FERNILEE LODGE

In reply to **Hon. SANDRA KANCK** (20 February).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has provided the following information:

1. Section 16 of the Heritage Act states that 'a place is of heritage value if it satisfies one or more' of seven criteria. These criteria serve as guidelines to departmental staff and consultants.

There are many examples remaining throughout metropolitan Adelaide of substantial residences (gentlemen's or otherwise) on large blocks. In the Burnside Council area alone, for example, several large dwellings remain, including Wattle Grove, Kurralta House, Wooton Lea, Benacre and Attunga.

Given the modifications to Fernilee Lodge to convert it to a function centre, the integrity of the place as a dwelling has been compromised.

The garden contains some large exotic trees but is not of horticultural significance.

2. The original building of 8 rooms was constructed in 1880 but was later significantly expanded and stylistically altered to a large Queen Anne (rather than Italianate) style house dating from 1907.

There are many other examples of Queen Anne style dwellings remaining in Adelaide, as seen, for example along Cross Roads between Fullarton and Goodwood Roads. The Queen Anne style can be seen as a stage in the evolution of architectural styles generally and it had a large variety of interpretations across Australia. Although giving an 'ornate', 'pretty' appearance, it is no more significant in the history of architecture in South Australia, than say, Victorian or Bungalow styles. Queen Anne is not a particularly 'innovative' style or construction technique in the sense of Criterion (e).

3. Criterion (c) was intended mainly for places of geological, palaeontological or archaeological significance. Places will not normally be considered under this Criterion simply because they are believed to contain archaeological or palaeontological deposits. There must be good reasons to suppose the site is of value for research, and that useful information will emerge.

the cellaring alone would not qualify Fernilee Lodge for listing under Criteria (c) or (e). Cellaring for storage can be found in many older houses and homesteads throughout South Australia, in a wide variety of shapes and sizes. Cellar rooms devoted solely to residential use are less common, but excellent and better preserved examples of these can be found at Ayers House, Vale House in Levi Park, Parkin House at North Plympton and Urrbrae House, all of which are State Heritage Places.

4. Fernilee Lodge has been used as a reception centre since 1958, or about one third of the time that the building has been in existence.

The fact that the place was used as a function centre is considered of local rather than State Heritage value.

5. The building had been erected by 1880 by a local speculative builder, Dennison Clarke, who lived in the house for a short time. James Gartrell purchased the house in 1881, enlarged it to 20 rooms in 1886-7 and revamped the exterior of the house to its current format in 1907. Gartrell occupied the house until the mid 1920s.

Although James Gartrell occupied the building for 45 years, this reason alone would not be sufficient to justify its entry in the Register. Gartrell can be seen as a significant South Australian, but his life of philanthropy is better represented by such buildings as the Gartrell Memorial Church. The conversion of Fernilee Lodge to a function centre has reduced, to some extent, the evidence of its association with Gartrell. The life and work of the Cooper family is better represented by their firm's breweries and their product.

6. The Department for Environment and Heritage does not routinely give detailed reasons for rejecting nominations to applicants. In the correspondence it was explained that the place had been previously assessed as a local heritage place, and that the place was not protected under the Development Act 1993 because Burnside Council's local heritage list was voluntary, meaning that if owners objected to that listing, the place was not listed.

In essence, the heritage value of Fernilee Lodge has been assessed, both by the Department for Environment and Heritage and independent heritage consultants, as of local, rather than State Heritage significance.

TRANSPORT SA, MINISTERIAL INSTRUCTION

In reply to **Hon. DIANA LAIDLAW** (20 February).

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

1. I also wish to ask the minister to clarify the exact nature of the direction he has issued to Transport SA and possibly all other agencies prohibiting officers speaking to me or even a family-related or other personal inquiry.

2. Has the minister given the same instruction to Transport SA and other agencies in relation to all contact by all members of parliament of all political persuasions or does his instruction only relate to Liberal Party members, or merely to me?

Guidelines for appropriate contact between MPs and public servants are laid down in Public Sector Management Act Determination 9 Ethical Conduct—Access by Members of Parliament to Public Servants, which was issued by the Commissioner for Public Employment and came into operation in August 2001. Transport SA instructed staff to comply with this determination through a corporate bulletin reissued in August 2002.

CHILD ABUSE

In reply to **Hon. A.L. EVANS** (2 June).

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

1. Of the 400 FAYS staff providing front-line services to children and their families, how many of that number are located outside the metropolitan area?

There are approximately 60 front-line staff in the rural and remote regions who are providing service responses to notifications of child abuse and neglect. In addition, there are around 50 staff who provide services to children and young people in other program areas, for example, young offender services, children who are under the Guardianship of the Minister, alternative care service responses, and adolescents at risk.

2. Of the 11 203 reports received of suspected child abuse or neglect for the 2001/02 financial year, what are the proportion of calls received from metropolitan and country regions of South Australia?

Of the 11 203 reports of suspected child abuse received in the 2001-02 financial year, 3,221 reports (28.75%) related to children residing in country region, and 7,982 reports (71.25%) related to children residing in the metropolitan region.

3. Will the minister advise the ratio of administrative staff to those carrying out direct child protection duties in Family and Youth Services?

There is no direct ratio of administrative staff to staff carrying out direct child protection duties. Administrative staff in Family and Youth Services are employed for a range of corporate support functions, e.g. physical and human resources, reception duties, record maintenance. Each District Centre has 1-2 administrative staff, in addition to the Business Manager.

TEACHERS, MALE

In reply to **Hon. KATE REYNOLDS** (14 May).

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

While gender is one variable in teacher workforce recruitment, this Government places the highest priority on identifying teachers on the basis of their ability to provide the highest quality education for our children and students regardless of whether they are male or female.

This government has taken a firm stance on attracting, recruiting and retaining teachers through a number of initiatives.

One of the steps taken in the past 12 months to ensure more people are attracted to teaching has been via the Recruitment Unit. This Unit has significantly increased its involvement in career expos that provide a valuable opportunity to promote teaching as a career, particularly in country locations and in scarce subject areas.

Another initiative is the Early Targeted Graduate Scheme which is designed to identify quality teachers and offer them permanent employment in country or hard to staff metropolitan schools. In 2003 Country Teaching Scholarships were offered for the first time, designed to attract undergraduate students who live in regional or rural South Australia to undertake teacher training programs. Further support to newly appointed teachers is the allocation of an additional 0.1 staffing to each school for each first year teacher. This provides additional support to teachers as they begin their careers.

A particular initiative that supports young people in their decision-making on a career choice has been the appointment of teachers to permanent positions instead of contract jobs.

As part of the Enterprise Agreement between the Government and the Australian Education Union/CPSU/PSA, enhanced incentive payments were included in the agreement to attract teachers to teach in regional and rural South Australia.

The future supply and demand for teachers, across Australia, is also under consideration by the Ministerial Council on Education Employment Training and Youth Affairs. There is recognition that the age profile of the teaching workforce is rising and that action must be taken to recruit young people into the profession. The State government will work with the Commonwealth where possible to achieve an increase in the number of well-qualified young people—male and female—training to be teachers.

AUTISM

In reply to **Hon. A.L. EVANS** (12 May).

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

The Commonwealth Government's Special Education Grants Program provided the following per-capita amounts to the Autism Association of SA.

1. The funding allocation per child in the 2002-03 was:

Early Intervention	Category 1:	$4,444
	Category 2:	$2,666
	Category 3:	$1,037
School Support	Category 1:	$4,148
	Category 2:	$2,074
	Category 3:	$ 444

2. There was no funding allocation per child in 1999. The previous Minister changed the formula in 2000 to a per capita basis.

The figures for 2000 are:

Early Intervention	Category 1:	$5,773
	Category 2:	$3,233
	Category 3:	$ 924
School Support	Category 1:	$4,172
	Category 2:	$1,323
	Category 3:	$ 305

The figures for 2001 are:

Early Intervention	Category 1:	$4,456
	Category 2:	$1,810
	Category 3:	$ 696
School Support	Category 1:	$5,291
	Category 2:	$1,114
	Category 3:	$ 557

SAND DRIFT

In reply to **Hon. J.S.L. DAWKINS** (23 April).

The Hon P HOLLOWAY: "The Minister for Transport has provided the following information:

A total of $31,567.50 has been spent on sand removal between November 2002 and March 2003 on the following roads:

RN 7398—Loxton-Pinnaroo	$14,122.50
RN 7500—Loxton-Murray Bridge	$12,237.00
RN 7384—Swan Reach-Purnong	$ 5,208.00

No sand removal works have been carried out on the Loxton to Swan Reach road at this time.

SCHOOL CLASS SIZES

In reply to **Hon. Sandra KANCK** (previously **Hon. M.J. Elliott**) (2 December 2002).

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

1. The provision of classrooms to meet the needs of schools that have been allocated additional junior primary teacher from 2003 to reduce class sizes in junior primary classes in category 1, 2 and 3 schools has been completed. 21 additional classrooms were required and have been delivered. Modification to existing buildings was required at eighteen school sites to accommodate the additional classes. That work has been completed.

2. There is no ready answer to this question. There has been no policy change on class size beyond the already announced initiative to provide an additional 160 junior primary teachers. The work necessary, if there is to be a policy change, would be undertaken thoroughly before announcing such a change.

3. There has been no calculation of the resource implications of a 'significant' reduction in class size across primary schools. There is much more than a 'classroom availability' issue in the event of such a change in policy.

Schools are funded to use resources negotiated under individual school asset management plans, related to student enrolment. If the schools choose to use facilities beyond that which is funded in the asset management plan the school will be accountable for that expenditure.

NORMANDY MINING

In reply to **Hon. R.I. LUCAS** (5 December 2002).

The Hon P HOLLOWAY: The Minister Assisting the Premier in Economic Development has provided the following information:

A facilitation and assistance package involving cash incentives and an ICPC land and building lease back package over 10 years (subject to conditions) was approved by the previous Government. The Department of Business, Manufacturing and Trade (then the Department of Industry and Trade) had some contact with Newmont at the time of the Normandy takeover. This largely took place just prior to the last election.

The Department has not had any further approaches from Newmont. Indeed the Department now understands that of recent weeks Newmont has been negotiating with the private sector on leasing new premises within the CBD. Accordingly the Department is now intending to formally write to Newmont advising them that the assistance package earlier agreed with Normandy Mining is withdrawn.

The Government has indicated publicly on many occasions that it is now focussing its efforts in the area of economic development largely on industry wide initiatives of a strategic nature rather than assisting individual companies.

SCHOOLS, TECHNICAL STUDIES

In reply to **Hon. KATE REYNOLDS** (25 March).

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

Principals and other employees within a school who have a supervisory responsibility to students must ensure that all equipment in use by those students is safe for its purpose. All equipment must be maintained in a safe condition and worksites are required to identify the hazards associated with plant, undertake risk assessments and then develop a plan to control the hazards utilising current risk management techniques.

The expectation in relation to the safety of plant is based on a genuine concern for the safety of individuals along with the requirement for compliance with legislation. I recently allocated $1.26 million, to 100 schools, to upgrade machine safety. The equipment is used to support the delivery of technology studies, agriculture and design technology in our secondary schools. Sites may apply to the department's risk management fund for additional support if they do not have the capacity to address extreme and high risk issues.

Between 1997 and 2001, some $400,000 was set aside to conduct safety audits, develop a machine guarding CD for site use and fund sites to purchase guards for machines which posed a risk throughout a cutting or shearing action. In 2002 the department's assigned WorkCover consultant identified that some plant and machinery did not meet all the requirements of the appropriate standard.

On the department's behalf the Department for Administrative and Information Services undertook an audit of machines safety in technology studies, agricultural and grounds areas in sites with a secondary curriculum component. This audit took place in term 4, 2002. This program cost $485,000 and each site received a detailed listing of the issues associated with each piece of plant at that site. The auditors were directed to inform principals of the machines which posed a significant risk to health and safety and to advise principals to remove those machines from service. A limited number of machines, some 7% were identified as presenting significant risk and therefore required immediate removal from service.

Principals were asked to consider the ongoing use of these machines. If the machines were identified as no longer required, principals were given instructions as to how to dispose of them. If the machines were identified as still being necessary for the ongoing delivery of the curriculum then a risk assessment was to be undertaken and appropriate controls put in place to eliminate or minimise the risk prior to the reintroduction of the machine into use.

To support staff and schools in undertaking risk assessments, a comprehensive training program has been provided in locations across the State. So far around 160 staff have attended the courses. Further courses will be offered in 2003.

The content of these training courses included legislative requirements, risk assessment processes and conduct, recommended guarding solutions and the use of action plans to ensure the safe operation of machines used in technical studies.

JOINT COMMITTEE ON A CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to move a motion without notice.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That the members of the council appointed to the joint committee have power to act on the joint committee during the recess.

Motion carried.

NATIONAL WINE CENTRE (RESTRUCTURING AND LEASING ARRANGEMENTS) (UNIVERSITY OF ADELAIDE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 July. Page 2903.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak to the second reading of the bill. The Liberal Party's position has been more than adequately put in a fulsome and comprehensive fashion by my colleague the member for Waite in another place. Given the lateness of the hour and that we are at the end of the parliamentary session, I do not intend to repeat much of what the member for Waite put on behalf of the Liberal Party in relation to this issue, and I do not intend, on this occasion, to revisit the history of the National Wine Centre. However, I do want to address some comments on the current lease and the proposed amendments to the National Wine Centre legislation.

My overall comment is that I believe the University of Adelaide, in the leasing agreements, is to be congratulated. The university has obviously driven a very hard bargain. It is an extraordinarily generous set of documents, resolved in favour of the University of Adelaide. I hasten to repeat that I make no criticism of the University of Adelaide, which has conducted its negotiations in a business-like fashion. We had heard that there were some continuing delays by the university in signing up to the lease agreements. The university was obviously playing hard ball, as is its right, and it would appear it has achieved much of what it was after, if one looks at these documents.

I did place on the record, during the Appropriation Bill debate, the view of some Labor Party members who were concerned at the arrogance of the Treasurer in relation to his current position. When one looks at the House of Assembly debate on this bill, I think there is further evidence of what is an unfortunate trait of the Treasurer. For example, during the committee stage, when various questions were put to the Treasurer in relation to whether or not the university was required by the lease to continue to call the building the 'National Wine Centre', the Treasurer's response was, 'Quite frankly, I could not care what they call it.' When there were some genuine questions relating to some provisions of the lease which allowed subletting of up to 75 per cent of the

wine centre, the Treasurer's response was, 'But my care factor is nil.'

Sadly, I think it is a fair indication that the Treasurer did not devote much attention to the detail of the leasing agreement and had left it potentially to others. In his oversight of those lease negotiations, he did not really care at all about some of these quite important provisions in the lease. The Treasurer of the state, a person who is a signatory to the document, when asked questions about the lease, said that he could not care and that his care factor was nil and, in some cases, he refused to answer questions about the implications of aspects of the lease deal. So, it is quite clear that the Treasurer did not understand the provisions of the lease he had signed.

It is clearly cause for some concern that the Treasurer of the state should be in charge of and, ultimately, signatory to such an important lease document. I will address some of the concerns raised about the proposed lease arrangements. I suspect that we will get no further information in the debate in this council. Nevertheless, the concerns will be placed on the public record. The first broad area I want to canvass is the capacity for the university to close down the wine exhibition section of the National Wine Centre.

At the time of the announcement of the University of Adelaide deal, both the university and the Treasurer proudly boasted that this was a good deal and, particularly, that the wine exhibition would continue as part of the National Wine Centre. I refer members to clause 5 of the memorandum of lease agreements between the Treasurer and the University of Adelaide. Under the notification and shutdown provisions, it states:

> The university will notify the Treasurer if the number of visitors falls below 3 750 in any quarter.

Then, under clause 5(4)—Shutdown, it states:

> If the number of visitors falls below 7 500 in aggregate in any two quarters in any year, the university may shut down and cease operating the exhibition without any need to give reasons to the Treasurer.
> (b) The university must give the Treasurer not less than 20 business days prior notice of the shutdown of the exhibition.

As the member for Waite rightly pointed out, there are no requirements in the lease for marketing plans or arrangements from the University of Adelaide in relation to the wine exhibition. There is not even a best endeavours provision to try to ensure that the university does not deliberately run doggo on the wine exhibition aspect of the National Wine Centre with a program to close that section of the wine centre.

If the Treasurer had negotiated a provision at the time of the announcement and indicated, 'Look, we don't know whether the exhibition is going to stay open; we'll be honest about this. There are provisions that the university can close it down if it doesn't meet certain aggregate attendance requirements over a period,' that would have been another set of circumstances. Whilst one might have been critical of the negotiated deal in those circumstances, one could not be critical of the Treasurer's transparency and accountability in relation to the deal that might have been negotiated. However, as I said, the university and the Treasurer, at the time of this announcement, did indicate that one of the benefits of the deal was the continued existence of the wine exhibition. In terms of the public discussion, I can find no public reference in relation to these particular provisions which could lead the university to close down the wine exhibition.

With respect to 5.3, the requirement states that the university will notify the Treasurer if the number of visitors falls below 3 750. There appears to be no requirement in the negotiated lease as to within what period such a notification would have to be made. If I am the University of Adelaide, I could notify the Treasurer two months later that the number of visitors has fallen by 3 750; and if in the subsequent quarter it is also below 3 750 or an aggregate of 7 500, then, as the university, I can automatically close down and cease operating the exhibition.

I would have thought that if the Treasurer negotiated a lease arrangement (and one which he signs), the very least he should have done would have been to ensure that, in some way, the intent of 5.3 could not be negated in some way by the university. I am assuming that the intention of 5.3, 'Notification', was to be an early warning signal. If in one quarter there was a reduction in the number of visitors below 3 750, and if it, for example, wanted to ensure the continuation of that centre, the state might run tourism marketing programs, or whatever it chose to do or deemed to be important. Therefore, the University of Adelaide could also take corrective action if it deemed that to be important.

So, it would appear that that was meant to have been a notification to inform further action for the ensuing quarter. The shut-down provisions do not actually say two consecutive quarters. Those provisions state, 'in any two quarters in any year'. In that respect I guess that it does not have to be consecutive quarters. Nevertheless, the point remains the same: there does not appear to be any legal requirement on the university to notify within a certain specified time period and, for the life of me, I cannot understand why the Treasurer would sign a lease with those particular terms.

It is not a particularly onerous lease. We are not talking about hundreds of pages. It is 18 pages of lease, unlike some of the leases in relation to privatisation deals that comprised some hundreds or thousands of pages. It should not have been beyond the wit of the current Treasurer to read 18 pages of the lease and raise these issues as to why he was being asked to sign the documents in this way. I seek a response from the government's advisory team as to why the Treasurer did not insist on tighter provisions in relation to 5.3.

I also seek some advice as to the most recent record of quarterly numbers so that we can compare those with these numbers of 7 500 in aggregate in any two quarters in any year. The other section to which I referred briefly was the provision which allows the university to sublet or otherwise part with possession of not more than 75 per cent of area of the buildings without the prior consent of the Treasurer. A series of questions was asked in another place that did not seem to come to landing in terms of what options might be possible. Again, the Treasurer, in a flippant response, ruled out the subletting to McDonalds or a car retail outlet. When one looks at the government's responses and the way this lease document has been outlined, it certainly would not appear to exclude, for example, a major Booze Brothers' outlet, Quaffers, Baily and Baily or a variety of other—

The Hon. R.D. Lawson: Sip'n Save.

The Hon. R.I. LUCAS: Sip'n Save. I am indebted to the shadow attorney-general's retail shopping habits, or else his television viewing habits. When one looks at the parent legislation and the responses from the Treasurer in another place, certainly, it would not appear potentially to rule that out. I am certainly seeking a response from the Leader of the Government as to whether he can rule out the fact that the university could convert 75 per cent of the National Wine Centre into a Quaffers' outlet or a Sip'n Save or some wine retail outlet. I think there would be some concern from a

number of people if the Treasurer of the state has negotiated a deal which allows that.

I guess that the concern from some members, having looked at this debate in *Hansard*, is again the arrogance of the Treasurer in saying that he really could not care. It did not worry him. This is the deal that he signed. He was not across the detail of the lease agreement even though he signed it and, frankly, he could not care. We accept in the opposition that the Treasurer and the Premier have had their fun with the National Wine Centre in a political sense. It was and continues to be, in large part, a political football for the current Rann government, and that is part of the cut and thrust of politics.

But the reality is that he now takes on a responsibility as the Treasurer of the state, at least on occasions, to move beyond the political cut and thrust to ensure that deals on which he signs off and negotiates do protect the public interest. As the Treasurer he is there to endeavour to do that. If it is correct—and the Leader of the Government in this council cannot rule out the fact—that the University of Adelaide could turn this into a Quaffers or a Sip'n Save (or 75 per cent of it) without any reference at all to the Treasurer of the state, I think that is an appalling indictment of the capacity of the current Treasurer and how he conducts business negotiations.

The Treasurer is a little sensitive about his business capacities. I was critical of the deal that he negotiated last year—the Cunningham's $2 deal that he did with the wine industry. But I am also critical of this particular deal in terms of his attention to the detail of protecting the public interest. This remains a public asset. It remains a significant investment by the taxpayers of South Australia as a public asset. Whatever one's political views of its birth, it exists. It is a public asset and the Liberal Party, as indicated by the member for Waite, is not opposing the negotiated arrangements with the University of Adelaide. If they are to be significantly used by the University of Adelaide for its purposes, together with the wine exhibition, it would appear to be a positive net benefit to the state.

If it is the case, the Treasurer has just said, 'I don't care if the University of Adelaide subleases 75 per cent of this for a Quaffers outlet or a Booze Brothers outlet: I don't even want to be notified or consulted if they want to go down that path.' As he says in the House of Assembly, on the *Hansard* record, 'My care factor is nil.' He could not give a damn as to what the university is to do with up to 75 per cent of a $30 million to $40 million public asset. I am sure that there will be shared concern from those interested in the future of the National Wine Centre at the attitude expressed by the Treasurer. As I said earlier, evidently, according to the Treasurer, the deal he has negotiated does not even require the university to maintain the title of the building as the National Wine Centre.

If it wants to, it can call it Quaffers Wine Centre, evidently, or the Sip'n Save Wine Centre or whatever it wants to. Again, the care factor of the Treasurer is evidently nil: he has no interest in what the university calls the National Wine Centre. A number of other aspects of the lease are of concern in terms of protection of the public interest. As I said, I am not going to enter into a debate that was covered in another place about the history of the National Wine Centre, being much more interested in the deal that has been negotiated by the Treasurer with the University of Adelaide, whether or not that is a good deal for taxpayers and whether or not that lease arrangement is protecting the public interest to the maximum possible degree.

As I have highlighted in those two or three areas, I have grave concerns that the Treasurer has applied due diligence to the matter. He does not appear to have cared about aspects of the lease arrangements where he should have and he certainly does not appear to have protected the public interest as he should have. My colleague the member for Bragg raised some important questions in relation to the compensation provisions. I note that the opposition had been promised a copy of the lease document much earlier than the debate. I think the debate was originally going to be on the Tuesday, and we had been promised a copy of the document late last week. We understand that the Treasurer personally intervened and stopped the officer who was going to provide a copy of those documents to the opposition on the basis that, clearly, the Treasurer did not want the opposition to have an opportunity to look at these lease documents for anything longer than a 24-hour period prior to having to debate the issues.

There is no criticism of the officers involved. They contacted my office and those of other opposition members, advising us that they were going to provide copies of the lease documents. It was only after that call, when the officers did not turn up, that the opposition contacted those Treasury officers and said, 'You rang us and said that you're going to provide these documents: what's happened?' We were told by one of those Treasury officers that the Treasurer had personally stopped the delivery of these documents to the opposition; it was a direction from the Treasurer. When one looks at the documents, one is not surprised as to why the Treasurer was not wanting the opposition to have them for an extended period, to take legal advice on them and to consider them clearly.

I have just identified some of the provisions we have been able to look at quickly, to highlight their inadequacies. We also found that a critical page—and in my case a critical two pages—had not been provided. In my case, pages 12 and 15, covering critical clauses in the lease agreements, had been excluded from the documentation. Other opposition members found that page 12 had been excluded. It was only on the day of the debate that we actually got from the Treasurer full copies of the lease agreements with the missing pages provided. That will all be good fun and good sport for the Treasurer: 'Don't provide documentation to the opposition and, when you do, make sure they don't get all the pages of the document.'

My experience of opposition tells me that you just have to accept those things as part of the cut and thrust of politics. That is the way some ministers handle their negotiations with the opposition. I must say that other ministers do not descend to those levels. They are as accommodating as they might be and do not play those sorts of games with the opposition. I think my comments make clear that the Treasurer does not fit into that category at all.

The member for Waite highlighted a number of the additional costs that the government will continue to pick up, and some of those, to be fair, are not unreasonable in terms of a negotiated settlement of the deal. From my viewpoint as a former treasurer, I can accept that there is some give and take in relation to termination payments for some employees and personnel costs etc. Based on legal advice it may well be that that is an acceptable resolution with the university after a hard negotiation. I certainly do not go down the path of being critical of all the financial aspects. It is easy to be critical of those sorts of matters, having been involved

previously. I accept that there is give and take in relation to these issues but I do not accept that in some of those other cases there needed to be the concessions that were given, and I have highlighted my concerns on the public record.

There are some other issues that probably will be more easily raised in the committee stage. In particular, the amendments to section 5 of the parent act and how they might relate to the capacity of the university to do what it wants with the property are issues that I might pursue during the committee stage.

The Hon. P. HOLLOWAY (Attorney-General): I thank members for their contribution to the debate. The Hon. Mr Gilfillan raised some issues last week, some of which related to the lease conditions and were similar to the questions raised by the Leader of the Opposition. I suggest that we put this bill into committee and, when the Hon. Ian Gilfillan returns, I will endeavour to answer those questions. I thank the council for its indications of support for at least the principles of the bill.

Bill read a second time.

WATERWORKS (SAVE THE RIVER MURRAY LEVY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 July. Page 2889.)

The Hon. CAROLINE SCHAEFER: I rise to reluctantly support the second reading of this bill. It is entitled 'save the River Murray' bill. A more appropriate title would be 'introduce a new tax to pad out the coffers of the government' bill. This broken promise, which destroys the goodwill of the people, is a tax. I find it quite inventive that this government has worked out that the parlous state of our waterways is something that worries all tax-paying South Australians. There is enormous goodwill to introduce greater environmental flows and a healthier river, and consensus has been reached as to how much that environmental flow should be. But this bill has very little to do with achieving that.

Perhaps that is evidenced most by the fact that in another place this bill was dealt with by the Treasurer and not by the Minister for the River Murray. It is the Treasurer who decides where this money goes and not the Minister for the River Murray. It is a new levy, a new tax and therefore a broken promise. It is a tax introduced by populism, and in another place the minister admitted that the Minister for Government Enterprises (Hon. J. Weatherill) is still working through details of its application. It is a case of: let us think of a popular idea where we can badge something to introduce a new tax; we will bring it in; we will start slugging people; and then we will work out what excuse we can use to justify not using if for the purposes believed by the people of the state. It is a flat tax which applies a $30 tax to housing and a $135 tax to businesses.

It applies regardless of the amount of water used and regardless of the income of the people using it. It has very little to do with any sort of equity whatsoever, and I am surprised that a socialist government would introduce such a tax. Mitsubishi will pay a $135 tax, as will the corner store that supplies sandwiches to Mitsubishi. A small unit dweller will pay the same tax as the Hon. Michael O'Brien in Springfield. I cannot see that this is fair or equitable in any way. It is a tax to be collected in South Australia but not necessarily to be spent in South Australia. This tax is estimated to collect an additional $20 million from the taxpayers of South Australia. Guess what? That just about directly corresponds with the amount of revenue that will be forgone by this government because of water restrictions.

This really is about topping up the coffers. During the recent debate on the Living Murray it was estimated that the 1500 gigalitres needed to increase the environmental flow will cost in the vicinity of $5 billion to buy over some 75 years. This is therefore a sleight of hand and, to use a colloquialism, it is a spit in the bucket compared with what is needed for environmental flows and has very little to do with the good health of the river. Further, it is open ended. I am interested to know what the minister has to say, but nowhere in the bill do I see what are the aims of this tax slug. It is called the 'save the River Murray' bill, but it is a new way to get revenue and just another broken promise.

It is also CPI indexed, so $30 today slugged on small suburban families could be $35 next year and $40 the year after. It is CPI indexed to who knows what! It is not only a flat tax but an escalating flat tax. Further, the contributions to the Murray-Darling Commission for some 100 years came from general revenue in this state, but the first $15 million we have been guaranteed by way of a suggested amendment will come from general revenue, but after that this tax slug may well be used to simply pay what has previously come from general revenue. It could just as easily be called the 'Foley broken promise' bill or the 'let's introduce a flat tax by any means' bill. To call it the 'save the River Murray' bill is a misnomer.

There has been considerable anxiety at the introduction of this tax slug, particularly amongst rural people. Originally we were told that each meter would be charged $135. We have now been assured that each property will be charged $135, but that is regardless of whether or not people use that water. By simple having a meter on their property they will be charged $135. They have now been told that for the purposes of this tax slug they can amalgamate their various meters and pay one charge. However, there is a 125 kilolitre allowance per meter and a 10 per cent leakage allowance per meter and no-one that I know—and I would be interested if the minister can answer some of these questions—has been able to get a straight answer on whether, if they amalgamate their allowances for the purpose of paying one fee, it then reduces to one 125-kilolitre allowance. One of the more informed people in the chamber has just shaken his head. I have been unable to get a straight answer to that question.

Similarly, do people then lose their leakage allowance of 10 per cent? Is that also then cut back to one 12.5 kilolitre leakage allowance? A hotline has been set up, as is very necessary when governments choose to introduce new taxes by stealth, to try to appease the anxieties of the people who will be hit by this new tax. The constituents I speak to throughout the state have not received one consistent answer to their questions. It seems to depend on who is manning the phone at the time. This is a money bill, and the tradition in this parliament is that we do not oppose money bills, but I stress absolutely and categorically that this bill is not about saving the River Murray but about saving the $20 million revenue loss as a result of the introduction of water restrictions.

The Hon. SANDRA KANCK: When the government announced this levy, the Democrats expressed support for it but, having seen the legislation and having had a briefing on the bill, we do have concerns about its application. The

amount being levied is not huge, and most South Australians are willing to pay it because they believe it is for a good cause. It will be $30 per annum for residential users and $135 per annum for non-residential users of water. I understand from the briefing that I was given that, because the levy will not be applied until 1 October this year, in this financial year the government expects to collect $15 million from it, and in the full financial year following it will be $20 million.

To the Democrats, there are issues that smack of unfairness in regard to the amount that is being levied on non-residential customers. The large industrial users, no matter how much water they use, will pay the same amount as the small users. It is interesting to note that, three or four months ago in the Environment, Resources and Development Committee, I moved that the committee send letters to the 15 largest industrial water users in this state, asking what they were doing to reduce water usage. To my knowledge, as of our meeting this week, not one of them has yet replied.

I am on the public record as saying that this levy is all stick and no carrot. It does not matter if you are a good conserver of water. For instance, a person who uses 300 litres a day or 30 litres a day will be paying the same levy as someone who uses 3 000 litres a day. Similarly for business. For instance, if a person operates a dress shop with a toilet out the back, a hand basin to wash their hands in and a tap that they turn on to make their coffee, they will pay the same levy as Michell's wool-scouring business. That means that the dress shop will be subsidising Michell or Mitsubishi, which is plainly unfair. One has to contrast that, in turn, with the sacrifice that has been asked of irrigators. They have cuts of up to 35 per cent in their water use and potential fines of up to $10 000, as well as their $135 levy. If they are making those sacrifices, why are Michell and Mitsubishi not being asked to make a similar sort of sacrifice?

The flat nature of the levy, whether it be for residential or non-residential users, is of concern. It should have been based on a percentage of water usage, and that would not have been difficult for the government to do. Through SA Water all that information is available when a bill is printed out, so it could have been done as a percentage. As it is, the high users of water will subsidise the low users across the board, whether it be for residential or non-residential use. The responsible water users will subsidise the profligate ones, and that is simply not the way to encourage conservation of water. There should have been a sharing of the load.

I think that the public will be concerned when it finds out that only half the money collected will be directed towards restoring environmental flows. As I said, most members of the public support the levy because they believe that it will be used carefully and wisely. Given that only half of it will go to environmental flows, that is of concern. As the Hon. Caroline Schaefer said, effectively this is a money bill and we in this chamber cannot amend such bills, otherwise I would certainly have looked at altering it.

I was told at my briefing about exemptions that are being made and how some of the finetuning is occurring. People who are currently concession card holders will not be levied, housing co-ops will be exempted and the minister will be able to give exemptions to Housing Trust property and Aboriginal Housing Authority property. Places of worship will be classed as residential rather than non-residential, so they will pay the lower of the two levies, and land holdings above 10 hectares will be levied as non-residential.

That raises some interesting questions. I have not had this issue raised with me but, since the briefing, I have wondered what will happen with a group like the boy scouts, with its property in the Hills, Woodhouse, which clearly has more than 10 hectares of land. It is certainly not a commercial venture, although it is clearly not residential. What flexibility exists in the system to deal with something like that?

The bill was received by us yesterday and the time frame that we have to consider it in today will probably prevent us from teasing out all the issues like that. We are being placed in the situation of trusting the government to get it right. Given that the levy will be implemented from the beginning of October, I suspect that the government and SA Water will be very busy sorting out those individual cases as to how groups will be classified and who should have exemptions. I will not be surprised to see the government resorting to regulation-making powers under the Waterworks Act in order to achieve all of that. The Democrats support the second reading, noting our concerns that only half the money collected will go to restore environmental flows.

The Hon. R.I. LUCAS (Leader of the Opposition): As outlined by my colleagues in another place and in this chamber, the opposition will not oppose the bill, but we strongly oppose the premise behind this legislation. As the Hon. Caroline Schaefer has indicated, this is a fundamental promise broken by Premier Rann. As I have outlined on a number of occasions, Premier Rann knowingly made a significant number of explicit commitments in relation to taxes and charges prior to the election. Whilst the Premier and his ministers might choose to forget the promises that they made on the basis that they proved to be inconvenient when trying to manage the budget of the state, certainly from the opposition's viewpoint we will continue to remind them of their incapacity to keep their word.

These are critical issues. This is not only a broken promise in relation to increasing an existing tax, as has occurred with stamp duties and gaming taxes. It is not only a broken promise as we have seen in relation to increasing government charges, contrary to commitments that were made, because we have seen government charges increase right across the board. It is not only a broken promise in relation to increases in water rates, when Treasurer Foley made explicit commitments on ABC radio that there would be no increase in water rates under a Labor government. In all those areas, they were explicit and very popular commitments.

The former government was up front in indicating that it would not be in a position to make a commitment about freezing government charges. Explicit and popular commitments were given by the Premier and Treasurer when in opposition on the area of taxes and charges but, as I said, the former government had looked at the budget situation and realised that it could not make commitments in relation to freezing government charges. There had been an existing package in place in relation to annual adjustments to government charges, and the former government gave no commitment in relation to freezing that, but the Labor Party made a very popular commitment about freezing those government charges.

Explicit commitments were broken in both those areas, and now a third area—that is, an explicit promise not to increase or introduce new taxes or charges—has also been broken by Premier Rann, because we now have what is known in the community as the 'Rann water tax'. I am sure that as consumers receive their bills for the Rann water tax, and they realise how much is being added to those bills and

that Premier Rann has broken an explicit election commitment, that criticism will increase and increase significantly.

The opposition's position is clear: we are not going to oppose the bill. Our position is premised on the fact that this is a significant part of the budget package—some $20 million per year in terms of potential revenue flowing to the government—and for that reason we will not formally oppose the legislation in the parliament. However, we strongly oppose the broken promise and will continue to strongly oppose Premier Rann's apparently wanton disregard in terms of keeping his election commitments in relation to taxes and charges.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank honourable members for their contribution to the debate. There are some issues that we will need to resolve during the committee stage, so I will leave most of my comments until then. However, I do wish to comment on one point that came up in debate. I understand that the Minister for the River Murray and the Treasurer have made it clear what will happen in relation to farming operations where there are multiple meters, and that is that farming operations with multiple accounts will be eligible for a rebate limiting their total levy payment to $135. One option would have been to amalgamate property to have one title, which obviously would have been somewhat formidable in terms of the cost to individuals and in administrative terms. The other alternative announced by the Minister for the River Murray is that a system would be available for people with multiple accounts so that they could claim a rebate, limiting their total levy payments to $135, which would effectively eliminate the need to amalgamate assessments.

There are a number of other issues and comments that I could make, but I will comment about the arguments used by the Leader of the Opposition and others that this is a broken promise. As one of the ministers on the Murray Darling Basin Ministerial Council, I can say that the situation in respect of water supply in south-eastern Australia is unprecedented. If I recall the figures correctly, between November last year and April this year, the inflow into the Murray-Darling Basin catchment was 15 per cent less than the lowest levels previously recorded. I believe they were the figures. That is the sort of situation that this state is facing in relation to the River Murray.

We are also, of course, facing water restrictions for the first time in many years—perhaps for the first time ever—certainly for the first time in the memory of most people. In relation to those irrigation areas, for the first time cuts to our 1 850 gigalitre annual allowance under the Murray are likely, that is, the first time since that figure was set at 1 850; it was of course previously 1 500, if I recall correctly. It has been 1 850 now for some years. It is the first time that this state will be unlikely to receive its entitlement under that allowance.

So the situation facing us in the River Murray is absolutely unprecedented and I think the public of this state accepts the need for the government to do something about it. The other point I will make is in relation to comments of the Hon. Sandra Kanck. She criticised this measure in the context that it would have been better to have had a levy based on a different basis that would encourage conservation. The principal reason for this levy is of course to raise money to save the Murray and to deal with the fundamental issues we face at the moment in relation to the River Murray. This is not a conservation measure as such but, obviously, many of the things that will be funded under the Save the Murray levy will certainly improve conditions in relation to the River Murray.

I am pleased to say that some of the programs being funded under the budget in my portfolio will, through SARDI and other parts of PIRSA, look at improving irrigation efficiency, which of course will have the impact of improving the efficiency of water use within the River Murray. So with those comments, I will not take up any more time but I thank members for their support for this important measure.

Bill read a second time.

NATIONAL WINE CENTRE (RESTRUCTURING AND LEASING ARRANGEMENTS) (UNIVERSITY OF ADELAIDE) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.I. LUCAS: Under the lease arrangements (subclause 5(3), 'Notification'), there is a provision that the university will notify the Treasurer if the number of visitors falls below 3 750 in any quarter. What is the minister's advice in relation to why no time restriction was placed on the university that within a certain period it must notify the Treasurer?

The Hon. P. HOLLOWAY: I am advised that it is to the commercial advantage of the university to respond quickly, and it is not a critical issue.

The Hon. R.I. LUCAS: I would not agree with that assessment from the Leader of the Government that it was a commercial advantage. It may well be that, if the university was minded to shut down the National Wine Centre (I am not saying that it currently has that view) at some stage in the future, if the numbers were to drop below 3 750, and it is not required to advise the Treasurer under this provision (I think that, clearly, the response from the minister indicates that it is not required, within a time frame, to do so), in those circumstances, if the Treasurer was so advised, the Treasurer and the government might have a different view about the wine exhibition.

It may well be that a future treasurer or a future government might think that the wine exhibition is an important part of the National Wine Centre, and that the government was prepared to do something in relation to, say, additional marketing, or whatever, to try to increase the numbers into the wine exhibition. The government might not have that view—that is fair enough—but at least it would be in a position to be able to make that judgment as to whether or not the continued existence of the wine exhibition was an important part of the National Wine Centre.

I do not intend to delay the committee stage on this. The Leader of the Government has made it clear that there is no requirement in the legislation that the university should notify within a certain period. Therefore, my question is answered—that it can delay notification for months if it wishes. The government's response is that it is of no consequence, and it is really to the advantage of the university. What we are trying to put here is not necessarily what is to the advantage of the university, but what might be in the public interest in relation to this area, and also what might be in the public interest in terms of ensuring what the Treasurer and the university said at the time, and that was that the wine exhibition would continue to exist. Does the government have

any indication of recent quarterly figures with which we can compare this figure of 7 500?

The Hon. P. HOLLOWAY: While we are getting that information, I will refer to a press statement that the Deputy Premier made as recently as 11 July, when he said, talking about the National Wine Centre:

> It will become a centre of excellence for wine education and research in the capital of the nation's premier wine state, and it will remain a facility the public at large can enjoy through the wine exhibition and catering for functions.

I note that the Deputy Premier also said:

> The exhibition will remain open to the public, and the university is exploring avenues to enhance its presence.

I think that answers the question about the government's views in relation to the exhibition. In relation to the question just asked by the honourable member, I am advised that, since January this year, the numbers have been in the range 1 200 to 1 300 a month. Where did the 3 750 figure come from?

The Hon. R.I. Lucas: Over what period?

The Hon. P. HOLLOWAY: That is since January this year.

The Hon. R.I. Lucas: That is less than 3 750.

The Hon. P. HOLLOWAY: That 3 750 is, as I understand it, a quarterly figure. Those are the figures for the recent quarter.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: That 3 750 figure is based on the current attendance, averaged over the last few months.

The Hon. R.I. LUCAS: There are two points there. The minister is confirming that the current rate is probably under the trigger point rate, under the notification provisions. If the numbers during this period have been 1 200 per month, for a quarter we are talking about 3 600 approximately, which is below the 3 750. The notification provision, clause 5(3), provides:

> The university will notify the Treasurer if the number of visitors falls below 3 750 in any quarter.

So, at some stage, the university will notify the Treasurer that the numbers are just below 3 750. When it says 'in a year', does this mean a calendar year or a financial year? If it is less than an aggregate of 7 500 in any two quarters in any year, the trigger point of 5.4 for a shutdown might be activated by the university.

The Hon. P. HOLLOWAY: My advice is that the university is committed to increasing these numbers, and the government faces no exposure from that fact.

The Hon. R.I. Lucas: Which is it: a calendar year or a financial year?

The Hon. P. HOLLOWAY: Any 12 month period, I am advised.

The Hon. R.I. LUCAS: Is that just any rolling 12 months—any consecutive four quarters? In respect of the period for which he has just provided the answer, was that the first quarter of this year (January to March) or the second quarter (April to June)?

The Hon. P. HOLLOWAY: I am told that it is based on the current attendance averaged over the past few months, and the latest advice is April to June, so it is the last quarter.

The Hon. R.I. LUCAS: I note in the definition clause that the traditional definition of quarter is 'any three month period commencing 1 January, April, June, July and October'. For example, those figures could be for the second quarter of the year and any time between now and March next year, if in one of those three quarters there is a number less than 3 750, it would appear that the shutdown provisions of the lease will potentially have been activated and we will see that, under the lease signed by the Treasurer, the university will be able to shut down and cease operating the exhibition without any need to give reasons to the Treasurer of the state.

The Leader of the Government has been kind enough to highlight, in general terms, recent statements made by the Premier that indicated that, as part of this deal, the wine exhibition will stay open. The minister quoted a recent statement from the Premier telling the people of South Australia that this was going to occur. In fact, that highlights the point I am making. The Premier and the Treasurer have continued to make these statements, but they have not made it clear that the lease agreement signed by the Treasurer has given the university this power, and it looks like the notification provision may potentially have been already activated. As I have said, if one other quarter in the next three quarters has less than 3 750 visitors, the shutdown provision of the wine exhibition will have been activated, and the university has the option to shut down and cease operating the exhibition.

Whilst the Leader of the Government cannot control the claims being made by the Premier, I think he would be well advised that any statements he makes about the wine exhibition staying open ought to be heavily predicated on the basis that his Treasurer has signed a lease giving the university the capacity to close it down—it looks like in the next nine months—when one more quarter with fewer than 3 750 visitors is experienced by the university.

It is worthwhile noting, as the member for Waite highlighted (and I am not suggesting that the university will do this, and the Leader of the Government has quoted statements from the university that that is not its current intention), that there is no requirement in the lease for even best endeavours in terms of marketing and trying to keep the numbers up. 'Best endeavour' clauses in leases are quite common, and one accepts that they are not the best provisions one would seek in a lease agreement. Nevertheless, they are indicators of intent, first, from the government and then the lease party that they are going to show best endeavours to give it a best shot at keeping this wine exhibition open. However, as the Treasurer said in the House of Assembly, his care factor is nil about this issue, and it is therefore not surprising that he has signed a lease agreement that has not even countenanced some sort of 'best endeavours' provision for the university in terms of trying to ensure this wine exhibition is kept open.

The Hon. P. HOLLOWAY: I am advised that the commencement date is 1 September this year, so I think that in itself should give some comfort that a genuine attempt will be made in the future. All I can say is that the government has every indication that the university is serious in its intention to make this exhibition work. We could have a debate about the role of government in relation to wine centres, but I think that issue was settled at the last election.

The Hon. R.I. LUCAS: The other issue I raised in the second reading related to the subletting provisions, or assignment provisions, of the lease, as follows:

> The university may sublet not more than 75 per cent of the area of the buildings situated on the said land without the prior consent of the Treasurer.

I accept that the university could not put in a used car yard or a MacDonalds, but my specific question during the second reading debate was: is there anything in this assignment provision which would prevent the University of Adelaide from putting in a wine retail outlet, whether it be a Quaffers,

a Sip'n Save or a Booze Bros, or whatever, but, nevertheless, a wine retail outlet, into 75 per cent of the National Wine Centre?

The Hon. P. HOLLOWAY: My advice is that there was originally a retail liquor outlet conducted in the wine centre, and there could be again, provided that the sublease meets the permitted use referred to in section 5(1)(a) of the restructuring act.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, it happened before under the previous centre, so it could happen again. But it could only happen under that particular section of the restructuring act. It is a matter of degree, but it is most unlikely that a commercial outlet, such as those mentioned by the leader, would qualify for the purposes of a wine centre.

The Hon. R.I. LUCAS: I want to qualify that. The leader has just responded and said that, under the provisions of the act, there has already been the capacity to have a retail wine outlet.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Right; so why then is it unlikely that another retail wine outlet could be—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: But wine.

The Hon. P. HOLLOWAY: I am advised that there are broader planning and development constraints. Part 3, section 5 of the act provides that the centre land continues to be dedicated land under the Crown Lands Act and that it is dedicated for the purposes of the centre. The act further states:

> The functions of the centre are—
> (a) to develop and provide for public enjoyment. . .
> (b) to promote the qualities of the Australian wine industry and wine regions. . .
> (c) to encourage people to visit the regions of Australia and their vineyards and wineries. . .
> (f) . . . to establish the facilities and amenities for public use and enjoyment and to provide other services or facilities determined or approved by the minister.

I am advised that it is a question of degree as to whether something like an outlet chain, as the leader has suggested, would fit within that term. One would have to say that one would have to do an awfully good job to fit within those definitions, but it is a matter of degree.

The Hon. R.I. LUCAS: I think the minister is, either deliberately or unintentionally, missing the point in relation to this. The University of Adelaide could continue the wine exhibition—which the minister has indicated is its intention—and meet the provisions of section 5 of the act, that is, develop public enjoyment and education exhibits, promote the qualities of the Australian wine industry and do all of those things in the building. That is in 25 per cent of the building. It has got 75 per cent of the building that it can sublease without going to the Treasurer. With the other 25 per cent it can continue to have its wine exhibition and fulfil those aspects of the act.

There is nothing in the act that requires 100 per cent of the building to be doing all of those things because, as the minister just indicated, there has already been a wine retail outlet in the area. Is the minister's legal advice that it is just not possible for the university to sublease up to 75 per cent of the National Wine Centre to a commercial retail outlet? Does he have the legal advice that says that that is not possible? If he can rule it out, that is the end of it. If he says that he cannot rule it out, that will be the end of it as well. We will have our different rules about it but I will not persist with it.

The Hon. P. HOLLOWAY: The point is that there are a series of practical constraints. The question about whether it is legally possible to do it in a theoretical context is one issue, but there are a number of points that need to be made. Let us look at some of the practical constraints. The leader talks about 75 per cent of its being able to be leased out. A significant proportion, I am advised, is already leased out to the wine industry. So, obviously, that is already—

The Hon. R.I. Lucas: That is not for 40 years.

The Hon. P. HOLLOWAY: Twenty years, I believe; certainly, a significant time. There are questions of other approvals that would be necessary for something to happen along the lines the leader suggests which, I think, would be extremely difficult to achieve. Secondly, I would have thought that the physical layout and structure of the building would strongly militate against anything such as the leader is suggesting happening.

The Hon. R.I. Lucas: But the law allows it?

The Hon. P. HOLLOWAY: I guess that it is probably arguable in terms of the things I have said now if all the cards in the deck fell a particular way. There are overwhelming practical constraints. The final point is, of course, that, as a tenant, we all know the university's principal function. But in relation to the actual legal advice, I am not sure that I can give the guarantee. We would have to look at whatever was put up. If the leader wants me to say that I rule it out, I probably cannot rule it out on the advice that is available to me now but, practically, it is highly unlikely.

The Hon. R.I. LUCAS: I am happy with that. That was all I was seeking. The minister could not rule it out. I can understand the practical arguments. I accept that his legal advice is that he cannot rule that out.

The Hon. P. Holloway: Could I just clarify—

The Hon. R.I. LUCAS: Let me finish. Under the bill before us there are amendments to section 5 of the act. There is a new section. Clause 4(2) provides:

> Despite subsection (1)(a), the minister may declare that a part of centre land is dedicated for purposes appropriate to the functions or purposes of the University of Adelaide.

I am wondering whether the minister might inform the committee about the purpose of the additional provision that is added to the parent act in relation to what the functions of this wine centre should be?

The Hon. P. HOLLOWAY: When I said that I could not rule it out, let me make it clear that I have not sought any specific legal advice in relation to the act. I do not think that anyone here would be prepared to give that sort of undertaking in relation to the act. I hope that I have made it clear where we are coming from. I am not aware of any specific legal opinion in relation to that question.

In relation to the specific question, I am advised that the 2002 act leased this building to the Wine Federation, and it was dedicated for the purpose of establishing a wine centre. If that had remained, it would obviously have been too restrictive for the university's use, so it was for that reason that this clause is inserted. Subsection (1)(a) provides that the centre land continues to be dedicated land under the Crown Lands Act 1929 and is dedicated for the purpose of a wine centre to be established, and then there are five sub-points of various things that a wine centre is supposed to do. This new clause will say that, despite those restrictions, this centre is dedicated for the purpose of a wine centre.

The minister made clear that part of the centre land is dedicated for purposes appropriate to the functions or purposes of the University of Adelaide. So, it is simply to release the university from some of the restraints that would have applied to the Wine Federation.

The Hon. R.I. LUCAS: Has the minister, who I assume is the Treasurer, made such a declaration yet or is there a current intention to make a declaration? If there is an intention, over which part of the centre land will such a declaration be made?

The Hon. P. HOLLOWAY: I am advised that no declaration can be made until this act is proclaimed, but I believe that the opposition has a copy of the lease, which indicates the intended declaration.

The Hon. R.I. LUCAS: I do not recall the detail of that aspect of the lease, so what is the intention in relation to how much of the centre land in broad terms will be declared under these purposes? Is it broadly all of it or a small portion of the centre land?

The Hon. P. HOLLOWAY: The relevant part states that by declaration by the Treasurer, with effect from the completion date, it is those parts of the centre land comprised within all buildings situated on the centre land other than those parts that those buildings (a) use for the conduct of the wine exhibition as reflected in schedule 1 of the university lease and (b) those parts of those buildings referred to in clause 2(1)(e)(ii). Perhaps we will try to get an interpretation of that! It is done by exclusion: it excludes the exhibition area and, as the tenancies expire, they can become available for the university's use.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 2952.)

New clauses 3A and 3B.

The Hon. P. HOLLOWAY: I want to make a few comments on a matter that was raised before the lunch break. As part of the legislative consultation process, chief judicial officers are often asked to provide comments on proposed legislation. However, the separation of powers is a fundamental principle on which our Westminster democracy is built. The Chief Justice is quite rightly very sensitive to this issue and very careful to limit his involvement in the legislative process. When comments are made by the government, the judiciary are generally at pains to emphasise that they make no comment on policy issues.

Rather, as a courtesy, judicial officers will make comments on technical and drafting issues. These comments are greatly appreciated and frequently result in government amendments to bills. This interaction results in better, more considered legislation. I am advised that it is not the practice of attorneys-general to make public the comments of judicial officers. The shadow attorney never did this in his albeit brief tenure as attorney-general, and neither was it the practice of his predecessors. I repeat: comments are made as a courtesy and as a private means of improving technical issues in South Australia's legislation.

I would hope that members would take into consideration the sensitivity and delicacy of judicial input into the legislative process and I ask members to respect that. Our statutes would be much the poorer if there were to be no input from the judiciary, and I would be disappointed if any politicisation of the comments resulted in the discontinuation of that practice of those very valuable comments from our chief judicial officers.

The Hon. R.D. LAWSON: Whilst I accept the truth of the assertions made by the Attorney-General, it is important for ministers, when asked questions in a debate about whether comments were sought from anyone, whether they were received and what is the substance of them, for the minister to answer appropriately and truthfully. The purpose of my question was not to embroil the judiciary in any political controversy, and the passage that the Attorney read into *Hansard* from the letter of the Chief Justice is obviously not a policy issue but relates to technical issues which, on no view of the case, could involve the judiciary in any form of political or policy controversy. We on this side are certainly respecters of the separation of powers but, by the same token, the government ought to be aware of the fact that it should not, as has sometimes been the tendency, rely upon judicial comments as support for policies that the government of the day might adopt.

The Hon. A.J. REDFORD: Mindful of the policy announced by the Attorney a few minutes ago, could he disclose to us whether the Chief Justice has any other views that have not been put to us regarding the appropriateness of the way in which we have endeavoured in this bill to implement government policy?

The Hon. P. HOLLOWAY: It seems as though I might as well not have bothered to even make the statement!

The Hon. Holloway's new clauses inserted.

The Hon. R.D. LAWSON: Mr Acting Chairman, I moved an amendment on the same lines and it has not been put.

The ACTING CHAIRMAN: The advice I have is that because the minister's amendments were agreed to that superseded the amendments you moved, but you may wish to clarify that.

The Hon. R.D. LAWSON: The amendments which the minister moved initially were the amendments to insert certain footnotes to various sections and they were carried. I also had amendments to the very same clauses. The amendments that I moved and spoke to were new clauses to be inserted on page 3, after line 10. My amendments are not inconsistent with the amendments put by the minister. My amendments relate to the subject of reversing the onus of proof and the Attorney's amendments relate to the insertion of certain footnotes.

The committee divided on the Hon. Mr Lawson's proposed new clauses:

AYES (9)

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

NOES (10)

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

PAIR

Stephens, T. J. Gago, G. E.

Majority of 1 for the noes.

New clauses thus negatived.

Clause 4.

The Hon. P. HOLLOWAY: I move:

Page 3, lines 20 to 22—Leave out subclause (1) and substitute:

(1) This section applies where—

(a) a relevant defence would have been available to the defendant if the defendant's conduct had been (objectively) reasonably proportionate to the threat that the defendant genuinely believed to exist (the perceived threat); and

(b) the victim was not a police officer acting in the course of his or her duties.

The effect of this proposed amendment is the insertion of paragraph (b) of the amendment. This is a substantive change and the effect is that the proposed new exceptional defence can not apply if the victim was a police officer acting in the course of his or her duty. The amendment was requested by the Commissioner of Police and the Police Association.

The Hon. R.D. LAWSON: I indicate opposition support for the principle of this amendment. I move:

Page 3, lines 18 to 34 and page 4, lines 1 to 16—Leave out clause 15C and substitute:

Requirement of reasonable proportionality not to apply in certain cases

15C. (1) For the purposes of this division, the requirement of reasonable proportionality does not apply in the circumstances of a particular case if (and only if)—

(a) the victim was not a police officer acting in the course of his or her duties; and

(b) the defendant genuinely believed the victim to be committing, or to have just committed, home invasion; and

(c) the defendant was not (at or before the time of the alleged offence) engaged in any criminal misconduct that might have given rise to the threat or to the threat that the defendant genuinely believed to exist (the perceived threat); and

(d) the defendant's mental faculties were not, at the time of the alleged offence, substantially affected by the voluntary and non-therapeutic consumption of a drug.

(2) In this section—

'criminal misconduct' means conduct constituting an offence for which a penalty of imprisonment is prescribed;

'drug' means alcohol or any other substance that is capable (either alone or in combination with other substances) of influencing mental functioning;

'home invasion' means a serious criminal trespass committed in a place of residence;

'non-therapeutic'—consumption of a drug is to be considered non-therapeutic unless—

(a) the drug is prescribed by, and consumed in accordance with the directions of, a medical practitioner; or

(b) the drug is of a kind available, without prescription, from registered pharmacists, and is consumed for a purpose recommended by the manufacturer and in accordance with the manufacturer's instructions.

The Hon. A.J. REDFORD: I move:

Leave out this clause and insert:

Substitution of sections 15 and 15A

4. Sections 15 and 15A—delete the sections and substitute:

Self defence etc.

15.(1) Subject to subsection (3), it is a defence to a charge of an offence if the defendant genuinely believed the conduct to which the charge relates—

(a) to be necessary for a defensive purpose; and

(b) to be reasonably proportionate to a threat that the defendant genuinely believed to exist.

(2) A person acts for a defensive purpose if the person acts—

(a) in self defence or in defence of another; or

(b) to prevent or terminate the unlawful imprisonment of himself, herself or another; or

(c) to protect property from unlawful appropriation, destruction, damage or interference; or

(d) to prevent criminal trespass to land or premises, or to remove from land or premises a person who is committing a criminal trespass; or

(e) to make or assist in the lawful arrest of an offender or alleged offender or a person who is unlawfully at large.

(3) A defence is only available under this section in relation to conduct that has resulted in the death of a person if—

(a) the conduct was for a defensive purpose described in subsection (2)(a) or (b); or

(b) the death was not caused intentionally or recklessly.

(4) For the purposes of this section, a person commits a criminal trespass if the person trespasses on land or premises—

(a) with the intention of committing an offence against a person or property (or both); or

(b) in circumstances where the trespass itself constitutes an offence.

(5) If a defendant raises a defence under this section, the defence is taken to have been established unless the prosecution disproves the defence beyond reasonable doubt.

Factors to be considered in determining whether genuine belief existed

15A. In determining whether a defendant had (or may have had) a genuine belief founding a defence under section 15, the court must consider—

(a) whether a threat in fact existed and, if so, whether the defendant's conduct was (objectively) a reasonable response to it[1]; and

(b) if the defendant's conduct was not (objectively) a reasonable response to a real threat—the plausibility of the explanation (if any) offered by the defendant for having formed the relevant belief[2]; and

(c) whether the circumstances out of which the threat arose were such as would allow or preclude a detached and dispassionate assessment of the threat and the means of responding to it[3]; and

(d) whether there were less harmful ways of dealing adequately with the threat that were, or would have been, obvious to the defendant.

[1.] For example, if the victim was a police officer acting in the course of his or her duties and was identifiable as such, the court may find that circumstance sufficient to negative any belief by the defendant that his or her conduct was necessary for a defensive purpose.

[2.] The consumption of alcohol or any other drug by the defendant may, for example, be relevant although the court would need to consider all the circumstances to determine the plausibility of the defendant's explanation (including any relevant conduct of the defendant prior to the consumption of the alcohol or drug).

[3.] The court must recognise, in particular, that there are situations—such as the situation of the innocent victim of a home invasion—in which detached reflection cannot reasonably be expected. Conversely, if the defendant was engaged in criminal conduct that may have given rise to the threat, the court may find that the defendant, in fact, anticipated the threat and could have taken steps to ameliorate it.

I will not labour the point and I will not seek a division but I have done this because I believe that my model provides a degree of simplicity and that is underpinned by some confidence that juries can make rational decisions provided the evidence is presented fairly before them. There was some criticism by the Hon. Paul Holloway in relation to that approach, and my understanding is that the criticism from the Hon. Paul Holloway is threefold. First, apart from the late Justice Murphy, there has been no other judicial support. Secondly, the law of self-defence has always been compli-

cated, and sometimes there are good reasons for complexity. Thirdly, in 1991 the select committee recommended that the concept of excessive self-defence underpin the law in this area.

Simply because no other judge supported the late Justice Murphy does not mean that he is incorrect. That is one simple point that I will make. The arguments are what we should be dealing with here, not who presents them or whether they achieve some other numerical support. The second point I make is that I accept and understand that there are occasions when the law ought to be complicated. I also accept and understand that the law has been complicated in this area for a number of reasons, not the least of which has been a concern on the part of the courts that to make the response the subject of a subjective test would be against or contrary to public policy. Parliament is not bound by those restrictions and we are entitled to make those judgments for ourselves.

Finally, in the area of criminal law, when you are dealing with issues that are to go to a jury, the principles ought to be able to be expressed clearly and simply. No-one can say that the law that will exist following the passage of the government's measures will be simple or easy to understand. What we are going to see is some poor judges having to put two different directions on burden of proof within trials, and that is a state of the law that I find objectionable. Notwithstanding that, I recognise the government's position and its mandate in this area. I will not seek to divide. I have only put this up because I know inevitably we will have to revisit this at some stage in the future and my suggestion provides a model for some people to think about.

The Hon. P. HOLLOWAY: I have a significant amount of information to offer in response to the honourable member's amendment. I take the point that he made about Justice Murphy, that just because he was numerically outnumbered does not mean that he was wrong. We need to make the point that the law of self-defence as proposed will be utterly re-enacted by way of amendment to a bill with quite another purpose. Who has been consulted on the new provisions? Have the judiciary, the legal profession, academics, the DPP been consulted? It might be wise, for there is confusion here.

The Hon. Mr Redford has said that he wants to follow in the footsteps of Justice Murphy's wholly subjective test, but is it wholly subjective? No. The element of reasonably proportionate response has been incorporated into the general test. Some may think that a good thing and some may differ, but two things are certain. It is not what Justice Murphy meant and it is not what the government is proposing. If this sort of rewrite is to be done, it should be done properly, expertly and thoroughly and not at the last moment.

There are some other points that I would like to make in relation to this amendment. There is no need to replace all the existing law. I need go no further for support than the second reading contribution of the shadow attorney-general. He said, in part:

> One saving grace of this rather artlessly drawn provision is that it does not deprive the householder of the conventional self-defence test that is set out in sections 15 and 15A of the Criminal Law Consolidation Act. Householders will still be able to rely upon the conventional self-defence and that is something to be applauded because the existing provisions relating to self-defence are cogent and understandable.

Other serious questions have to be answered and have not been answered. Significantly, the new code of self-defence proposed by the amendment does not contain the partial defence of excessive self-defence which reduces what would otherwise be murder to manslaughter. Why not? No reason has been given by the honourable member other than an assertion that he thought the doctrine to be ludicrous, but even the most cursory examination of the case law and the literature, and considerations of law reform bodies, both in this country and overseas, will show that there are detailed policy considerations involved over which these bodies have agonised at length. All this is apparently ignored. As I pointed out in the second reading debate, 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. The fact that this debate will not be had in detail should be sufficient to reject the proposed amendment. That is probably sufficient for now.

The Hon. A.J. REDFORD: I did not call it ludicrous; I called it incongruous.

The Hon. R.D. LAWSON: I commend my colleague the Hon. Angus Redford for producing this alternate formulation. It was certainly worthy of close consideration and debate. Regrettably, time does not permit that on this occasion. As he said in moving the amendment, there is undoubtedly likely to be occasion for revisiting the new defence of self-defence in relation to home invasions, and it will be interesting, when the new bill is applied to fact situations, whether it stands the test of time. On that occasion, we will be able to look back and see whether or not the model proposed by the Hon. Angus Redford would have provided a more satisfactory solution to this difficult issue.

The Hon. R.D. Lawson's amendment negatived, the Hon. A.J. Redford's amendment negatived.

The Hon. IAN GILFILLAN: Mr Chairman, I hope the table has my amendment, which is to clause 4, page 3, lines 27 and 28, because it is certainly relevant to the debate on this particular amendment of the Attorney-General.

The CHAIRMAN: I understand your concern and think it best if you move your amendment at this stage.

The Hon. IAN GILFILLAN: I move:

Page 3, lines 27 and 28—leave out paragraph (a) and insert:

(a) at the time of the alleged offence—

(i) the victim was committing, or had just committed, home invasion; or

(ii) the defendant had reasonable grounds to believe that the victim was committing, or had just committed, home invasion; and

The simple difference between the Attorney's amendment and mine is that the Attorney is specifically protecting a police officer acting in the course of his or her duties. One of the major areas of criticism that we have of this bill in its totality is the risk of inopportune activity being taken as an invasion, and then the householder causing grievous bodily harm or death. Paragraphs (i) and (ii) of my amendment provide for an objective test that can be proved in court, and this means that there is more substantial protection for people other than just a police officer acting in the course of his or her duties. I give as examples charity collectors, meter readers, youths chasing a ball and inadvertently entering a property, or someone who may be affected by drink and who was looking for a place for relief (putting it as politely as one

can). Theoretically, these people would be protected by this amendment. So I urge the committee to pass my amendment in preference to that of the Attorney-General.

The CHAIRMAN: I point out that the amendment we are considering, which was moved by the Attorney-General, comes before that part of the clause covered by the Hon. Mr Gilfillan's amendment. Honourable members should understand that I will test the minister's amendment, and then a separate test of the new amendment proposed by the Hon. Mr Gilfillan will be put before the committee.

The Hon. P. Holloway's amendment carried.

The CHAIRMAN: Does the Hon. Mr Gilfillan wish to further explain his amendment?

The Hon. IAN GILFILLAN: I thank the Hon. Robert Lawson for emphasising the situation. The actual placement in the bill is not in conflict with the Attorney's amendment. It is just that the Attorney's amendment has specifically identified a police officer acting in the course of his or her duties to be protected and I was pointing out that my amendment extends that to other people who may inadvertently be placed at risk going about their lawful activities.

The CHAIRMAN: Do you wish to indicate your attitude to this amendment minister?

The Hon. P. HOLLOWAY: We are opposed to the amendment. The amendment falls into two parts and I will deal with each part separately. Paragraph (a) part (i) would require that the defendant prove that there actually was a home invasion. For those purposes a home invasion means a serious criminal trespass committed in a place of residence. Serious criminal trespass carries a statutory meaning. It is in section 168 of the Criminal Law Consolidation Act. I will not read that out but it is clear that this is a definition for the courts and not for the ordinary member of the public. Therein lies the problem.

Paragraph (a) part (i) of the amendment would require the happenstance of this legal definition being satisfied before the home owner could have the benefit of the extended defence. The home owner would be subject to a legal lottery. No matter his or her state of belief or reasonable belief at the time, or any other matter, if it so happens that the complex definition was not actually as it happens there, the home owner cannot have the defence. The government does not think that this kind of legal lottery should exist. So, we would oppose paragraph (a) part (i).

The amendment contained in paragraph (a) part (ii) is not so tough. It allows for a mistake by the home owner. If the home owner mistakes the situation and it is a reasonable mistake, then all is well: the home owner can jump this legal hurdle. But all is not well. The amendment in paragraph (a) part (ii) is a change in the law as to mistakes about the situation—the necessity to act. The current law and its general application is completely subjective about necessity. Any mistake will suffice, as long as the resulting belief is genuinely held. This bill is directed towards mistakes about proportion, that is, not necessity but response.

If this amendment is passed, the peculiar result will be that the home owner will be subject to a more stringent test—the necessity to act—than under the general law. The home owner may have a defence under the general law but not under the exceptional defence. Put another way, the exceptional defence will no longer be a true subset of the general defence, but one merely overlapping with it. This compounds confusion to no sound end. That is why the government opposes the amendment.

The Hon. R.D. LAWSON: I would like to indicate that I am not convinced by the explanation provided by the Attorney. However, by the same token, nor am I convinced that an amendment of this kind is appropriate or that it might not have unintended consequences to the operation of this particular defence. If we have been unable to succeed in reversing the onus of proof, this defence will, as I indicated in my second reading contribution, be a very tight and stingy defence, one that will be extremely difficult to access. In those circumstances I think the government's proposal ought to be adopted and tested.

The Hon.Ian Gilfillan's amendment negatived; clause as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

The council divided on the third reading:

AYES (16)

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

NOES (4)

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

Majority of 12 for the ayes.

Third reading thus carried.

Bill passed.

CORONERS BILL

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

Amendment No. 1:

The Hon. P. HOLLOWAY: I move:

That the Legislative Council do not insist on its amendment No. 1 but agrees to the alternate amendment made by the House of Assembly.

The committee will recall that, when the Coroners Bill was being debated, the Hon. Ian Gilfillan moved some amendments. The government opposed them at the time.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, we did. But, on reflection, after examining those amendments, and having had some further discussions with the department and the Coroner's office in relation to how they might work, we believe that the general thrust of those amendments should be supported. However, a couple of minor matters needed to be addressed, the first of which was to refer any report in relation to deaths in custody to the State Coroner rather than to the court, because that would enable the Coroner to get reports even when he was not sitting as a court, which we believe is a sensible measure.

Also, one issue that was raised during the debate was the requirement that the Attorney-General reply to parliament within a six-month time frame in relation to deaths in custody when the Coroner has made specific recommendations. As I pointed out at the time, the problem with that was that the Attorney-General would be responsible for reporting to parliament over matters for which he was not the responsible minister. There is an amendment which rectifies this problem,

and it will require the appropriate minister to provide the report. I believe that the amendment of the house picks up totally the spirit of the Hon. Ian Gilfillan's amendment but just corrects some of the more practical difficulties, and I commend it to the committee.

The Hon. IAN GILFILLAN: The Democrats support the motion of the Attorney-General. Our confidence in supporting that motion was confirmed by a letter that was written by counsel assisting the State Coroner's Office, Kate Hodder, to Mr Andrew Thompson, Legal Officer, Policy and Legislation, Attorney-General's Department. I quote from the letter as follows:

> Dear Mr Thompson, Re: Coroners Bill (No. 111A) 2003.
>
> Further to our recent discussions, I confirm that I have given consideration to the proposed clauses 25(4) and (5), and the proposed amendments (as attached), and advise that in my view the proposed amendments as drafted are acceptable and are indeed appropriate. I have also had the opportunity to have discussions with the State Coroner (you will be aware that he is presently on recreation leave) in general terms about the wording of the proposed amendments, and understand that he also has no difficulty with those amendments.

With that assurance, we will accept and support the motion.

The Hon. R.D. LAWSON: I am disappointed to hear that the Hon. Ian Gilfillan has been prepared to agree to the watering down of his excellent amendment, which was consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

I am disappointed that a government that claims to be open and accountable would have sought the amendment which reduces openness and accountability by removing from the Attorney-General the important role and responsibility cast upon him under the Hon. Ian Gilfillan's original amendment. One thing about openness and accountability is that experience tells us that if one person is responsible to this parliament, or to any other body, for the performance of certain obligations, it is more likely that they will be performed than if one diffuses that responsibility to a number of different persons. The Hon. Ian Gilfillan has accepted the government's proposal in this direction.

The Hon. Ian Gilfillan read to the council, a moment ago, a letter from the counsel assisting the Coroner, who indicated that the amendment was acceptable and appropriate. Well, it may be acceptable and it may be appropriate, but the bill has been watered down; it is not as good as it was. I regret that the honourable member has conceded that his amendment can be watered down. However, I do not blame the Hon. Ian Gilfillan for this; I do blame the government, which is playing a political game here.

The Hon. Ian Gilfillan had a very good amendment, but it was fought tooth and nail by the government. The Attorney-General gave many reasons why it was absolutely impossible for such an impractical amendment to be insisted upon. Then the government realised, as the Minister for Aboriginal Affairs and Reconciliation had to cross the floor and vote against this excellent recommendation of the Aboriginal Deaths in Custody Royal Commission, that it was a political embarrassment for the government.

What the government contrived to do was to produce an amendment of its own so that it could go out to the Aboriginal communities and say, 'It was our amendment that was accepted by parliament. It wasn't the Australian Democrats', supported by the opposition, it was the government's amendment.' Well, that simply will not wash, because there are people in the Aboriginal community who follow what happens in this place who will know—and we will make sure they do know—that this government opposed this amendment tooth and nail.

It was only when the government was embarrassed during NAIDOC Week, voting against this excellent measure, that they changed tactics, adopted a political ploy, and have now come up with a shabby little deal to put themselves in a good light, which they do not deserve to be in.

The Hon. A.L. EVANS: Family First reluctantly supports this amendment. I put on the record my view concerning the amendments introduced by the Hon. Ian Gilfillan. These amendments were based on recommendations contained in the Inquiry into Aboriginal Deaths in Custody. That inquiry was exhaustive and comprehensive. In the conduct of that inquiry, considerable thought was given to making recommendations that would improve the handling of Aboriginal people through the criminal justice system and would also result in fewer deaths in custody. I therefore commend the Hon. Ian Gilfillan for his series of amendments.

Motion carried.

WATERWORKS (SAVE THE RIVER MURRAY LEVY) AMENDMENT BILL

In committee.

Clauses 1 to 6 passed.

Clause 7.

The Hon. P. HOLLOWAY I move:

> Page 5, lines 20-21—delete these lines and insert:
>
> (b) if the state's contributions to the Murray-Darling Basin Commission for a particular financial year exceed $15 million (indexed[1])—payment of the excess; and
>
> [1]The sum of $15 million is to be adjusted, for each financial year commencing after this paragraph comes into operation, by the same indexation factor as is applicable to the calculation of the amount of the levy for that financial year.

I understand the background of this amendment is that it came out of matters raised in another place by the opposition, and it is fairly self-explanatory. It applies in the situation if the state's contribution to the Murray-Darling Commission for a particular financial year exceeds $15 million (indexed): any excess amount above that can come from the levy.

The Hon. SANDRA KANCK: I simply ask the minister if he could explain it to us in ordinary English that the rest of us can understand.

The Hon. P. HOLLOWAY: I understand that, in the forward estimates, $15 million has been provided to the Murray-Darling Basin from the consolidated account. This amendment will ensure that only an additional amount above that $15 million would come from the levy. In other words, it effectively protects the $15 million in the forward estimates. So, that cannot be off-set against the levy. That is really the guts of it.

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: Well, no, it means that $15 million is set aside in the forward estimates to go to the Murray-Darling Basin Commission. The government would not be able to use this additional money coming in from the levy to pay that $15 million commitment to the Murray-Darling Basin Commission unless, of course, the contribution to the basin, for whatever reason, goes above that $15 million threshold, and that threshold is indexed.

The Hon. CAROLINE SCHAEFER: Perhaps I can explain that a little more. This is as a result of the concerns raised in another place with regard to what this money will

be used for. As I said in my second reading contribution, there is a real risk that this money will, sooner or later, be squirreled away into general revenue and very little of it will be used for purchasing environmental flow or remediation of the River Murray. The assurance was sought by, I think, Mr Mark Brindal and given by the Treasurer that he would find 'a set of words' that would satisfy us.

I can say that I am less than satisfied, but that is probably as good as we are going to get. Essentially, general revenue retains the obligation to pay at least $15 million out of general revenue to the Murray-Darling Commission. If a greater amount than that is required (and the amount does fluctuate from year to year for various reasons), it may, as I understand it, come from this levy, but it is not obligatory. I seek the minister's assurance that the money will not absolutely necessarily come from this fund, but may come from this fund, that is, the money over and above the $15 million.

The Hon. P. HOLLOWAY: I do not know that I can rule it out. The fact is that if this becomes law it effectively says that the state's contribution up to the $15 million excess cannot come from the levy. That is the guarantee.

The Hon. CAROLINE SCHAEFER: I am not worried about that, I am worried about the rest.

The Hon. P. HOLLOWAY: The converse is that anything over the $15 million can come from the levy. We do not know what the commitments or requirements of the Murray-Darling Basin might be. The guarantee is that the act will stipulate that at least $15 million will be provided to that commission, indexed, from the general consolidated account.

The Hon. CAROLINE SCHAEFER: As I say, I think that the public of South Australia thinks that this levy is actually going to be used for remedial works within the state and for purchase of environmental flow. I think that what is actually going to happen is that any demands beyond the $15 million will take precedence over that environmental flow. I would like the assurance of the minister that, while that money may be taken from this fund, it is not a given that it will be taken from this fund?

The Hon. P. HOLLOWAY: That is the effect of the act. I make the point, though, that a lot of the Murray-Darling Basin's money just does not go on clerks sitting in Canberra. A lot of work is done by the Murray-Darling Basin, for example the dredging of the Murray Mouth at the moment. Many essential works are done by the Murray-Darling Basin Commission. The shadow minister expressed the view that the people of this state wanted to be assured that the money spent would go on real works in relation to the Murray. Well, the Murray-Darling Basin does a lot of real works to improve the quality of the River Murray and, of course, it is doing it right now in a number of ways.

We have the dredging of the mouth but also there are programs to restore native fish and many other environmental programs, of which I am aware through my own portfolio, that really are specifically about improving the quality of water and the environmental sustainability of the Murray-Darling Basin. The MDBC is an agency for which that is its principal task.

The Hon. CAROLINE SCHAEFER: And, of course, that has always been the case but, until now, that funding has come from general revenue, and we believe that it should still do so. Instead of that, the taxpayer is funding through general revenue, and now it is funding through an additional tax.

The Hon. P. HOLLOWAY: No, because $15 million is the sum (and it is indexed) that is provided from the forward estimates. I may well be, I guess, that if the Murray-Darling Basin wants to ramp up a lot of works to improve the quality of water in the River Murray, there may well be greater requirements, but they would be commitments over and above what the Murray-Darling Basin is doing. The point is that there will be enough money coming out of consolidated account to pay for the sort of ordinary activities of the Murray-Darling Basin Commission. This just allows for funds to be used from the levy if there are additional requirements through the Murray-Darling Basin for specific projects and works.

The Hon. SANDRA KANCK: Just to give me an understanding of how this application will cut in and out, what are we paying this financial year to the Murray-Darling Basin Commission, and does the government have any projections as to if and when we are likely to get above that $15 million mark?

The Hon. P. HOLLOWAY: I am advised that the $15 million has been the long-term provision. In this particular year, though, there will be expenditure of $19.6 million of which $4.6 million will come from the levy. I must say that, as I am one of the ministerial council members, I am aware that there have been proposals for significant increases, which is scarcely surprising given the current state of play in the Murray at the moment.

The Hon. SANDRA KANCK: I might ask the obverse of the question that I just asked. In that case, is there any time in the future when the government thinks that we might be below $15 million?

The Hon. P. HOLLOWAY: For the 2004-05 year they are looking at $3.5 million from the levy on MDBC programs. That is what we are looking at presently. I do know from my time on the Murray-Darling Basin Ministerial Council that the budgets all have to go back to their individual states for agreement, and they can be fairly rubbery. Of course, there are issues. I know in the latest meeting we had at Toowoomba where the provisional budget was put forward there were such uncertainties as the cost of dredging, for example, and a number of other unknowns in the budget for the commission. From what we have in the planned budget, that is the expectation for 2004-05.

The Hon. SANDRA KANCK: So, within the foreseeable future the government is effectively banking on this levy to be paying at least 25 per cent of our expected contributions to the Murray-Darling Basin Commission.

The Hon. P. HOLLOWAY: Again, the honourable member needs to understand that the Murray-Darling Basin Commission may be doing increasing work. For example, there is the program on the native fish strategy, which from memory I do not think has actually been put into the budget yet. There might have been some very early parts but, if that is agreed by all the states, it might add significantly to contributions. A whole lot of things can be considered by the Murray-Darling Basin Commission. The point is that its expenditure is all about improving the quality of water of the Murray-Darling Basin so, if you want to improve the quality of the water in the basin, that will be one of the main vehicles for undertaking that work.

The Hon. CAROLINE SCHAEFER: Does the minister then agree that the main purpose for this new tax is to introduce new revenue for the purpose of the projects of the Murray-Darling Basin Commission? I am not necessarily saying that that is a bad thing, but it is not what the minister has claimed it is for.

The Hon. P. HOLLOWAY: How could that be, if the levy is raising $20 million and in 2004-05 we are talking about $3.5 million? It is just one component of a number of important works that need to be undertaken in relation to the Murray-Darling Basin. The Murray-Darling Basin Commission is the central funding authority, if you want to call it that, for many of the works that are done within the river system.

The Hon. R.I. LUCAS: When the minister said that this year $19.6 million was spent on the Murray-Darling Commission, that was obviously prior to the onset of the Rann water tax, that the $19.6 million—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: That is for 2003-04, is it?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: So, the $4.6 million extra that the minister is talking about will come from the new tax?

The Hon. P. Holloway: That is my understanding.

The Hon. R.I. LUCAS: The former government, in the sale of the Ports Corporation, put aside $100 million over seven years to help save the River Murray, and for each of seven years $13 million to $14 million is brought out of a complicated trade-off with Funds SA back into the budget to be spent on saving the River Murray. Will the minister clarify whether any of that annual contribution is included in the $15 million that the minister is talking about, or is that a separate $13 million or $14 million?

The Hon. P. HOLLOWAY: I do not know that the sale of the Ports Corporation was a particularly brilliant deal for the taxpayers of the state. Unfortunately, we have run out of assets that we could dispose of in such a way to pay for these things. In fact, as I have stated in speeches on previous occasions, we are left with an ongoing black hole because we were depriving ourselves of something like $14 million a year from Ports Corporation dividends and tax equivalent payments, if my memory serves me correctly. But that is another story. I am advised that it is a separate line of funding that does continue.

The Hon. R.I. LUCAS: So, for example, in 2003-04 there is $19.6 million, which comprises $15 million of general revenue and $4.6 million from the Rann water tax going to the Murray-Darling Commission; there will be the $13 million to $14 million which will be spent on saving the Murray through some other mechanism; and there will be an additional $15.4. million of the Rann water tax that will also be available to help save the Murray.

The Hon. P. HOLLOWAY: In concept that is correct, although I just point out that this year it will be $15 million because the levy has not yet begun. But, in essence, that is right. I think the money that went from the sale of Ports Corp, a lot of that goes to the national action plan for salinity to fund things like the Loxton scheme and the Lower Murray swamps, etc.

The CHAIRMAN: Because this is a money matter I shall be putting it in the form of a suggestion. The question is: that it be a suggestion to the House of Assembly to leave out all words in lines 20 to 21 and insert the clause proposed by the minister.

Question carried.

The Hon. CAROLINE SCHAEFER: Before putting my amendment I would like to ask the minister about clause 5(c) on page 5, which reads:

> . . . if the minister is satisfied that it may be appropriate to provide rebates in particular cases—

this is with regard to the use of funds—

> the cost of rebates (including the costs of administering the rebate scheme).

The minister has more or less—probably more less than more—explained to me that if as a farmer I have, say, 10 meters, as I understand it, I would be billed for $1 350 and rebated all but $135 plus the cost of administering the scheme. What does the minister estimate that cost to be and what would my bill then be as a farmer with multiple meters?

The Hon. P. HOLLOWAY: The rebate is just for farmers, so let us get that clear. I am advised that we do not have a cost for the administration at this stage because the negotiations are still under way on some aspects of the scheme.

The Hon. CAROLINE SCHAEFER: So, if I am a farmer with multiple meters my bill will not be a one-off $135 but a one-off $135 plus an administration fee, and the minister cannot tell me what the administration fee is.

The Hon. P. HOLLOWAY: There will not be an administration fee as such. What will happen is that the farmer concerned will get the bills. If he has five meters he will get five bills for $135 but he will apply for a rebate to bring it back to just one bill. In that example, he will get four lots of $135 returned on application.

The Hon. CAROLINE SCHAEFER: So, if I am a farmer with 10 meters, the minister is saying that I will actually have to write out a cheque for $1 350 plus administration fee and then we will see the ridiculous situation of Treasury refunding nine lots of $135 minus administration.

The Hon. P. HOLLOWAY: I am not sure whether the money would actually change hands, but we will check that. I am advised that SA Water does not always have the information to know who is responsible, so in the first instance it would be necessary to do that, but subsequently the rebate would be netted against the bill once that information was available.

The Hon. CAROLINE SCHAEFER: I can only say that Sir Humphrey Appleby would be proud of this system of divesting money from the public and I cannot wait, from opposition, for the reaction from people. I have heard of bills of up to $7 000, which they will have to post to the department, plus an administration fee and then, by and by, eventually they will get back most of their money but not the two administration fees—one for taking the money and one for sending it back. An amount of $7 000 in the case of some people is rather a lot of money to have on loan to Treasury.

The Hon. P. HOLLOWAY: It is obviously still early days in relation to this. These sorts of issue are being worked through. I am advised that there are a number of difficulties in relation to doing this. It is not a case of Sir Humphrey Appleby devising at all but rather that there are practical problems in relation to the availability of the information. I understand that in a lot of these cases the accounts may be in different names, so it will not be obvious in the first instance who is there. Eligibility I am advised will be subject to the following criteria:

> The owner or occupier of the land service must be the same. Where a single farming enterprise includes land other than that owned by the applicant, but which all participants in business occupy, then these may be included in an application: for example, it may include land owned by a father, mother, son or a family trust or land leased from another party but farmed as part of a single farming enterprise. The land must be wholly or principally used to carry on the business of primary production and managed as a single unit for that purpose.

Where that land is held in a number of different names in the first instance there will be difficulties in terms of sorting it out, but it will be done eventually.

The Hon. CAROLINE SCHAEFER: In the spirit of bipartisanship, I suggest that the department inquire as to how the emergency services levy is already administered, because it has already worked out all this.

The Hon. P. HOLLOWAY: Except that it is not based on SA Water data. Obviously, details still need to be worked through and I am sure further thought will be given to the practical implementation of these things. Hopefully, if we can get this bill through, the sooner it is passed the quicker some of these details can be worked out.

The Hon. CAROLINE SCHAEFER: I respect the fact that you want the bill through and that it is a money bill, but I can only say that I do not have the experience of some others in this chamber. It is the first time I have been asked to slip through a bill that is a new tax, in spite of the fact that there was a promise of no new taxes. It has attached to it an administration fee and no-one can tell me what that fee is and no-one can give me the details of how it will be applied, yet it takes effect on 1 October.

The Hon. P. HOLLOWAY: I am advised that there is no administration fee. Obviously, there will be administration costs associated with collecting the levy, which is inevitable, but I am advised that there is no administrative fee, as the honourable member describes it.

The Hon. CAROLINE SCHAEFER: I simply do not understand the minister, because this bill says 'including the costs of administering the rebate scheme'. Who wears the cost? I imagine that the payer of the bill wears the cost. You can call it a fee or a cost, but the person who thinks they will get a bill for $135 will probably get a bill for $138.

The Hon. P. HOLLOWAY: In a full year the scheme will raise $20 million and a certain cost will be involved—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: That would be a gross exaggeration. As we have indicated, these costs will decline with time. There are one-off problems.

The Hon. J.F. STEFANI: I do not want to prolong the debate but, to make a practical observation of this proposal, surely the government has the capacity to send out a form which provides the owner of the property with the opportunity to put the details in writing to the department, which can then make an assessment of the total amount of fee payable, rather than having money going to the department and then the department taking one, three or six months or seven days to remit the payment. It sounds ludicrous that there cannot be a simple method by which this fee or tax is levied on the basis of the information that the department can accurately assess and check and then advise the owner of the amount payable. It simplifies the whole process and saves cheques being lost in the post or in the department, the rebate system not working or whatever else.

The Hon. P. HOLLOWAY: I understand the point and that is what will happen after the first year. The problem is getting the information when you have holdings in the names of different people and family trusts. The department will not know until the application is assessed whether or not they are eligible for the rebate. Once the information is there—and I take the honourable member's point—and once you know where the rebate lies, it will make the administration of the scheme that much easier.

The Hon. J.F. STEFANI: At the risk of continuing this debate, I point out that surely we have the capacity within government to put before this parliament the details of administration. We are talking about passing a law that requires people to pay money. Like the emergency services levy, a formula was worked out before parliament was asked to consider the legislation. We are not talking about rocket science.

The Hon. P. HOLLOWAY: There has been a lot of thought given to it, and the issue of these rebates was raised subsequently by a group such as the South Australian Farmers Federation which, in dealing with the government, responded in a reasonable way.

If anomalies arise, as they do from time to time, good governments respond to them appropriately, and that is what this government will do.

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

That standing orders be so far suspended to enable the sitting of the council to be extended beyond 6.30 p.m.

Motion carried.

The Hon. CAROLINE SCHAEFER: This is one of the most ridiculous suggestions that I have seen or heard in a long while, but it is a money bill and I will respect that. I think it is so ludicrous as to be funny. With that, I move:

Page 5, after line 24—Insert:

(5a) The Minister must, as soon as practicable after 30 June in each year, submit to the President of the Legislative Council and the Speaker of the House of Assembly a report detailing—

(a) the amount of money paid into the Fund under this section; and

(b) the application by the Minister of money paid into the Fund under this section,

during the period of 12 months preceding that 30 June.

(5b) The President of the Legislative Council and the Speaker of the House of Assembly must on receiving a report under this section, lay the report before their respective Houses.

You will be not be surprised, sir, having listened to the previous debate, to hear that I am very sceptical about where the money will go from this new tax and how it will be spent. This amendment seeks to compel the government to submit a report as to how much money is gained from this levy annually and where the money is spent, and to submit that report to both houses of parliament. It is an attempt to make this government, which claims to be accountable and transparent, just that.

The Hon. P. HOLLOWAY: I have not had the opportunity to show the amendment to my colleague the minister responsible, but I am prepared to back it to the extent that we will not oppose it in the committee and I will leave it up to the Treasurer in another place as to whether he accepts it. I am prepared to accept it provisionally because I have not had the opportunity to show it to him.

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

Suggested amendment carried; clause, as suggested to be amended, passed.

Title passed.

Bill reported with a suggested amendment; committee's report adopted.

Bill read a third time and passed.

APPROPRIATION BILL 2003

Adjourned debate on second reading (resumed on motion).

(Continued from page 2943.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank honourable members for their contributions to the debate. In particular, I note the contribution made by the Hon. Michelle Lensink on her first speech in this parliament. I congratulate her on that. Many issues were raised during the debate. I do not propose at this late hour to respond in detail to them. The Leader of the Opposition raised a number of detailed questions, and I seek leave to have the answers to five questions incorporated into *Hansard* without my reading them.

Leave granted.

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

The Hon. P. HOLLOWAY:

Question 1: Reporting of budget savings—- has the Department of Treasury and Finance been treated differently to other portfolios?

Table 2.10 of Budget Paper 3, Budget Statement 2003-04, lists the savings and expenditure initiatives of the Department of Treasury and Finance. Those savings include items in the controlled and administered accounts of the Department of Treasury and Finance and sum, in total, to $6.992 million in 2003-04.

Treasury and Finance has not been treated differently to other portfolios. Where other portfolios have made savings in administered items, they have also been reported in the budget papers.

The administered savings achieved in the Treasury and Finance portfolio are real savings that benefit the budget. That is why it is correct for them to be reported as part of the total savings in the portfolio. The administered savings identified in Table 2.10 of Budget Paper 3 include work done by Treasury and Finance to identify lower cost options for financing the State's car fleet.

The distinction between administered and controlled expenditures is a technical accounting distinction. The classification of controlled and administered items in the budget follows the Australian Accounting Standards; in this case, Australian Accounting Standard 29 applying to government departments.

Question 2: Why does the Government claim to have boosted Arts spending when the Budget papers report a decline in total spending from 2002-03 to 2003-04?

It is important to recognise that Arts SA expenditure reported in the budget includes lumpy capital grant items that can distort the underlying position.

- In underlying terms, after adjusting for lumpy capital items, there is an increase in government funding for the arts in 2003-04.

In particular, capital funding for the State Library directed through Arts SA provided a significant boost to reported expenditure in 2002-03.

- Obviously, the State Library upgrade is not an ongoing expenditure.

Expenses in 2002-03 were also boosted by higher than usual accrual accounting provisions for employees.

After adjusting for lumpy capital spending and employee accruals, underlying State Government funding, in the form of appropriations and other grants, is expected to increase from $80.935 million in 2002-03 to $85.028 million in 2003-04. This is a 5.1% increase.

Question 3: Why did the Premier claim the cost of the Glenelg trams upgrade would be $56 million, when the cost reported in the budget is $26 million?

Budget Paper No. 5, the *Capital Investment Statement*, refers to the $26 million cost of the development of a modern light rail transit line; that is, the cost of the track upgrade.

In addition to the track upgrade, the existing trams are expected to be replaced by new trams with a total capital value of around $30 million.

The sum of these figures is $56 million. It measures the total size of the tram service upgrade.

However, the budget assumes that the new trams will be acquired through an operating lease arrangement. This means that the budget reports the operating costs of leasing the new trams, not the full upfront cost of purchasing the trams.

The operating lease payments of $3.1 million per annum are included in the 2003-04 Budget forward estimates.

Question 4: Has the Government redefined its target for consultancy savings by restricting savings to general government sector agencies only?

All Ministers were instructed last year to reduce expenditure on consultants across agencies in accordance with the Government's election commitment.

Question 5: Why is the general government sector now the preferred sector for the Government's fiscal target? Access Economics focuses on the state sector – why doesn't the Government?

The budget papers focus on the general government sector because it:

- ensures budget forecasts and targets are aligned with the Uniform Presentation Framework (UPF) agreed by all State Governments and the Commonwealth, and also by the Australian Bureau of Statistics (ABS); and
- enables comparisons of interstate budgets to be made. Most commentators, rating agencies and other State jurisdictions focus on general government sector budget figures.

the general government sector is based on internationally agreed standards for reporting government finances. The previously reported non-commercial sector is not defined by independent external reporting standards.

- The Government believes that it is important for the South Australian budget to comply with externally defined reporting standards.

The general government sector budget figures include subsidies paid to public trading enterprises and dividends received from those enterprises. The general government sector results therefore include all key transactions that impact on the State's core financial position.

- Subsidies paid to public corporations and dividends and taxes received from these public corporations are reported in detail in the budget papers.

Nevertheless, the Government also reports estimates for the total non-financial public sector in the budget papers. Access Economics calls this the "state sector".

- It combines the general government sector with all public non-financial corporations, such as SA Water and the Housing Trust.

This means that readers of the budget papers are fully informed about the estimates for both the general government sector as well as the broader non-financial public sector.

The Hon. P. HOLLOWAY: In the last few days some other questions were asked to which we have not yet had an opportunity to get responses. Where they are required, I will undertake on behalf of the Treasurer to respond to those members to provide that information. I conclude by thanking honourable members for their contributions, and I look forward to the speedy passage of this bill.

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

STAMP DUTIES (RENTAL AND MORTGAGE DUTY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 July. Page 2888.)

The Hon. R.I. LUCAS (Leader of the Opposition): Given the lateness of the hour I do not intend to make an extensive contribution. A number of the issues the opposition wanted to raise were raised by my colleague the Member for Davenport in another place. However, some issues were not satisfactorily answered—at least from our viewpoint—and I intend to pursue only one or two of those during the committee stage of the debate.

The other point I note is that the opposition will not oppose the bill. However, we again see, at least in part, the broken election promise in relation to certain taxes and duties, albeit that the government has not recouped as much revenue as it thought it would from the previous year's broken promise regarding some stamp duty changes. Therefore, the opposition will not be opposing the legislation as a budget measure.

My office has done some calculations in relation to conveyancing and mortgage duty rates, endeavouring to use Revenue SA's web site calculator and rate sheets. By way of examples: looking at commercial premises for business use,

and looking at the last two budgets in terms of broken promises, if the cost of the commercial premises for business use transaction was a million dollars with a mortgage of a half a million dollars on it, the total mortgage and conveyancing duty pre last year's Rann government budget would have been $43 070.

As a result of two Rann government budgets and broken promises that has increased by a massive almost $8 000, to $51 063. So, there has been a 15 to 20 per cent increase in mortgage duty and conveyancing duty costs on commercial premises. This government has waxed lyrical about economic development boards, business-friendly and all those sorts of things, but anyone with acquaintances in the commercial property market and those trying to run a business or undertake property transactions will know that this government has been free and easy in terms of breaking its specific election commitments not to increase taxes and charges.

Many in the community, perhaps some in the parliament, adopt the view that: it is only business, don't worry about that, it is not hitting individual consumers and businesses can afford to pay. Sadly, the brutal reality is that, as business costs increase, their capacity to employ more young South Australians decreases. As I highlighted in the Appropriation Bill response from the opposition, the sad reality is that, from the last two years when this state economy has bubbled along at about the national average for the first time in many years, Treasury is now predicting that this state's economy is going to go into decline, compared to the national average: a 1 per cent employment growth prediction, whereas the commonwealth economy is predicting an employment growth of 1.75 per cent. This is just over one half of the employment growth rate of the national economy, and, in terms of GSP growth, a significant reduction on GDP growth projections. State GSP growth is significantly less than national GDP growth projections. One of the reasons is the continued attack by this government in terms of the costs of doing business in South Australia.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: There is a perfect example. This government was elected on the promise of reducing electricity prices. This government campaigned and promised it would reduce electricity prices.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: The Hon. Terry Roberts says 'no levers', and I am glad that is on the *Hansard* record. Indeed, that was the position that the former government indicated, that is, in the national market state governments were restricted. That was not the position Premier Rann and Treasurer Foley indicated at that stage. I am grateful for the outbreak of honesty, albeit minimalist, from the Hon. Terry Roberts that there are no levers in relation to it. In relation to the national electricity market, that is a frank indication from one of the senior ministers in the Rann government—

The Hon. R.D. Lawson interjecting:

The Hon. R.I. LUCAS: Senior and influential minister, as my colleague said—of the accuracy of what the former government indicated. The costs of doing business continue to increase because of increases in taxes and charges from the government, and the costs of conveyancing and mortgage duty increases, as I have highlighted, are further examples of that. In relation to a residential premise for owner occupation, my office has calculated that in the past two budgets, if one looks at a home and land package of $300 000 with a mortgage of $200 000 on it, pre the first Rann budget it was $11 500 and post the Rann budgets it is $12 019—an increase of $499. It is a significant impost on ordinary working class and middle-class South Australian families. As I have highlighted, the median cost of housing in many western and north-western suburbs of Adelaide are now soaring over $200 000. Contrary to the view of the Treasurer and others, many working class South Australian families living in the western and north-western suburbs and districts are being hit heavily by the increases in stamp duty, implemented by broken promises in last year's budget and continued in this budget.

The other issue being canvassed in this bill is an error made by the Treasurer in relation to stamp duty in last year's budget. The Treasurer in last year's budget indicated that some stamp duty increases that he was implementing would lead to a $7.5 million revenue impact. He has had to concede this year that his information and advice was wrong, and his judgment was wrong in relation to that. We saw an endeavour in this budget to try to catch up on lost revenue from last year's budget. We have seen the rate increase on mortgages going from 35¢ per $100 up to 45¢ per $100. In our discussions, we have spoken to the Australian Equipment Lessors Association, because we had asked a question of the government's advisers about the hard evidence of this shift in financing arrangements away from commercial hire purchase to chattel mortgages. I think it is fair to say the government does not have hard evidence of that. Its evidence is that it did not collect as much stamp duty as it thought it would last year.

When the question was put to the government, 'Well, is it possible that clever lawyers and accountants have found a way around the stamp duty arrangements,' as they sometimes achieve, rather than there being this significant shift in financing arrangements from commercial hire purchase to chattel mortgage, I think it is fair to say that the government could not rule out that that was a possibility. Nevertheless, it stood by the anecdotal view put to it from the industry association that there had been a significant shift in financing arrangements from commercial hire purchase to chattel mortgage.

To be fair to the government, Ron Hardacker, from the Australian Equipment Lessors Association, made a similar statement to my office, as follows:

> There is a lot of evidence of a move from commercial hire purchase arrangements to chattel mortgages. For the same type of equipment financing there has been a shift over the years from leases to hire purchase agreements to chattel mortgages. Essentially everyone is chasing the lower tax rate. Most jurisdictions have a lower rate for chattel mortgages as opposed to equipment finance. SA and WA were the last two jurisdictions that were taxing equipment finance arrangements at 1.8 per cent, and are now moving to the 0.7 per cent rate (as with most other states). From a financier's perspective a chattel mortgage has more costs involved, for example, in registration fees. There are minimal differences in the security charged. Interest rates are similar.

That was the advice from the Australian Equipment Lessors Association. I must admit that, in the discussions I had, given the difficulties of a chattel mortgage in terms of the processing and the paperwork and some of the other issues in relation to security, on the surface, it certainly appeared hard to understand why, in a number of the sort of practical circumstances we could talk about, an individual consumer or a business would want to go to a chattel mortgage as opposed to commercial hire purchase. Certainly, it would appear to be a more complicated process. Clearly, there are these financing, or tax, issues that, I guess, have to be assessed on the

one hand compared to the other costs of making such a change in the transaction process on the other.

All in all, we certainly were not able to be provided by the government or its advisers (or, indeed, the industry associations, to be frank) with hard evidence of the number that have moved. Maybe that evidence exists somewhere, but it certainly was not able to be provided to the opposition. I guess that, in that respect, we will just have to take the government—and the Treasurer—on its word in relation to these issues and, obviously, monitor this issue over the 12 months and revisit it again in the next budget. I will not repeat the issues that have been raised by my colleague the member for Davenport on our behalf in another place. There are one or two issues that we will pursue during the committee stage.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank honourable members for their contribution to the debate. This is, of course, a budget measure that has both positive and negative impacts. It was part of the budget process, and I thank honourable members for their indication of support.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. R.I. LUCAS: I have only a couple of general questions which I will ask on this clause, for the sake of a clause. One of the industry associations has raised with the opposition an issue which may not be specifically related to the amendments before us but which is related to the stamp duty interpretation by the Commissioner for Taxation, and I seek the guidance of the minister and his adviser on the issue.

The issue that has been raised with the opposition is that a business in South Australia which has $100 000 of assets under mortgage in this state and $100 000 of assets under mortgage in Victoria is assessed and pays the stamp duty based on the asset mix applying in each state. The example that has been raised by the industry association is that, if the business then purchases an extra $100 000 of assets in South Australia via a mortgage—and this takes effect under the new higher rate of 0.45 per cent—the stamp duty assessment will be based not on the new purchase of $100 000 but on what would have applied from the starting date; that is, the old purchase and mortgage are taken into account.

The industry association's view is that this is particular to South Australia only, as the method of assessment in this state under the Stamp Duties Act allows it. Other states do not assess on the previous mortgage advances; they tax only on the latest advance, and South Australia is the only state that assesses its duty on the full amount. First, does the government accept that that is the case, that is, South Australia is different? Could the minister's adviser indicate under what provisions of the Stamp Duties Act this occurs? Does this occur legislatively, or is this an interpretation by the commissioner that would need to be challenged by an industry association if they were wanting to object?

The Hon. P. HOLLOWAY: I am advised that this issue has been raised by industry groups, but it has not been specifically addressed in this bill. However, it remains under consideration at present. I am advised that section 81B and section 79(2) of the act are the bases for this.

The Hon. R.I. LUCAS: Is it true that South Australia is the only state that assesses in this way?

The Hon. P. HOLLOWAY: The advice is that probably, yes, it is.

The Hon. R.I. LUCAS: This is a specific legislative provision; that is, if it was to be changed, it would require a change to the legislation. It is not an issue that the Commissioner for Taxation has interpreted this provision in a different way from, say, exactly the same provision in another state?

The Hon. P. HOLLOWAY: I am advised that it is the particular legislative interpretation. Industry has put the view that there could be an alternative legislative interpretation but they have not as yet provided that advice.

The Hon. R.I. LUCAS: As I said, given the hour, I will not pursue all the issues. We could not find a definition for 'residential premises' in the Stamp Duties Act. It was indicated to me that there are 20 other pieces of legislation in the state that have definitions. Is that correct?

The Hon. P. HOLLOWAY: I advise that 'residential premises' is not defined within the bill and should be given its ordinary meaning as provided for by the common law.

The Hon. R.I. LUCAS: Given that in 20 other pieces of legislation, some including taxes, as I understand it, where its ordinary meaning according to common law is not given, is it the view of the Commissioner for Taxation or the government, or whomever, that it is wrong or inappropriate to have a definition for residential premises in the Stamp Duties Act? Has there been a specific reason why over the years commissioners have not wanted to see a definition of residential premises, or is it because government has not got around to defining it in this particular piece of legislation?

The Hon. P. HOLLOWAY: I am advised that 'residential premises' does appear in a number of places within the Stamp Duties Act. My advice is that the department has always just relied on the common law definition, and it has not created any problems to date.

The Hon. R.I. LUCAS: I take it, then, that there is no opposition from the Commissioner of Taxation to a definition being included in stamp duties legislation that would mirror the existing interpretation of the definition of 'residential premises'?

The Hon. P. HOLLOWAY: I am advised that there has not been a problem, so it has not been considered. The corollary of that is that there is probably no advice that would necessarily be a problem if it were so defined.

Clause passed.

Remaining clauses (5 to 13), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

PARLIAMENTARY REMUNERATION (POWERS OF REMUNERATION TRIBUNAL) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 2948.)

Clause 1.

The Hon. T.G. CAMERON: The main reason I want to speak to this bill is the position that I took at the last election in relation to politicians' perks, etc., and I felt that if I did not speak on this bill I would be criticised for not doing so. First, I place on record my thanks to the Hon. Bob Such for providing me with a copy of this bill more than a week ago and for taking the time and trouble to give me a couple of

briefings on it. I know we are dealing with this bill in haste and it only arrived in this house today. Under normal circumstances, I would argue for an adjournment—

The Hon. R.I. Lucas: Yesterday.

The Hon. T.G. CAMERON: Sorry, it was introduced into this house yesterday. Normally, I would ask for an adjournment but, in view of the fact that the Hon. Bob Such provided me with a copy of the bill and spoke to me on a couple of occasions about it, I am in a position to deal with the bill today and, on that basis, can see no reason why it should be held up.

As I understand it, the bill provides a reference to the tribunal to determine whether or not members of parliament should have a motor car, and under what circumstances. I think most people in this house would remember that I was an industrial officer for the Australian Workers Union and I used to represent that union in wage cases before the Industrial Commission. I do not have a problem supporting this bill because it is about sending the matter off to an independent tribunal to be arbitrated and determined.

It has been brought to my attention by a number of members that South Australia is out of whack with the rest of Australia in relation to this issue. I do not know whether anyone will recall but, when SA First was in existence at the last election, one of the things that I argued for was that matters such as this should be dealt with by an independent tribunal, on the basis that matters in relation to this in other states have moved and South Australia now appears to be out of line with the rest of Australia. I see no problem in referring this matter to the independent tribunal for the matter to be arbitrated.

It is no different from when I was an industrial officer with the Australian Workers Union. Members would come in complaining about a particular matter in the award, we would attempt to negotiate some kind of outcome with the employer or the employer's representative and, if no agreement was reached, the matter would be sent to an independent tribunal for determination, that is, for an arbitrated decision. As I understand it, this is very similar to that process.

Wages and conditions these days are not determined on the principle of comparative wage justice. Wage indexation and various other measures were introduced by the Hawke government in the 1980s which saw comparative wage justice go out the window a bit. But, what is one of the things that an industrial commissioner will always do, particularly if he is required to make an arbitration on a new allowance or on a new matter?

As I understand it, that is what it is being asked to do. The first thing that an Industrial Commission or a full bench would do is to look at what applies elsewhere. It does not matter whether it is a group of workers or a group of employees. It does not matter whether they are doctors or farm labourers, the guidance that the Industrial Commission will seek will be, 'Well, what have they done elsewhere? What have other state industrial commissions or the federal industrial commission done when they have made arbitrated decisions?' They will not look at consent agreements because there might have been a sweetheart deal.

Consent might have been given at the threat of industrial action. But the Industrial Commission will take a look at what the practice is elsewhere. It is no different to what a judge would do when he is determining a legal matter. Judges will look to the relevant case law to find out what was done elsewhere by other judges, particularly higher authorities. I have no problem with this process as a legislative counsellor. I rely solely on my income as a legislative counsellor to survive. I am no different to a worker anywhere else. I do not run a private business.

I do not hold down another job, so I cannot see why we would oppose letting someone else, that is, an independent tribunal set up by this parliament, determine whether this matter is fair. That was what I argued for at the last election. I argued that it would be wrong and that I would be opposing this bill if what this bill was about was this chamber's agreeing with the other house and granting ourselves a motor vehicle, or any other matter. But what I do see as consistent with this matter with what I have been talking about in the past is that there is a bit of a dispute about this matter. Other jurisdictions have moved on it.

I do not know how many thousands of motor vehicles are provided to public servants, and I have heard grizzles about the inequity of our situation compared to what happens around the rest of Australia. I do not know whether members are aware, but nearly all the state jurisdictions—or all of them as far as I can see—have established a nexus with a federal member of parliament's salary, and that resolved that matter. It is now appropriate that this matter be resolved, and I am gratified that the members of parliament are not taking it upon themselves to grant themselves a car, which is something that could easily be done.

Once the bill goes through this place and is assented to by the Governor it would become law. I think that this is a sensible and responsible process to adopt. That is, we will refer the matter off to an independent tribunal. I do believe that, as a house of review, it is important that if members have something they want to say about this that they say it. The bill should not be rushed through the parliament. I want to ask a couple of small questions. I do thank members for their indulgence in giving me the opportunity to speak out of turn.

All we are doing today is adopting a practice that is afforded to most workers in the general community, that is, if there is a problem it gets referred to an independent tribunal and its decision is final. I would understand that if the tribunal, when it hears this matter, determines, for whatever reasons it has, that we do not deserve to get a car, well, that will be the end of it. However, if the independent tribunal determines that we ought to be brought into line with what members of parliament elsewhere receive, and those decisions were handed down by tribunals, I can see no problem whatsoever with the process.

I will not be supporting the Hon. Nick Xenophon's amendment. I believe that the independent tribunal should make its decision unfettered by directions from the Legislative Council. How independent is the tribunal if it is directed as to what kind of decision it should rely upon, or what it should rely upon, in making its decision? I support the legislation.

The Hon. SANDRA KANCK: It is my intention to move that we report progress, and I will explain why. First, because members are talking about this bill in terms of cars, I want to make it clear that this is not simply a bill to give MPs cars. As I mentioned this morning, I can see the possibility that I might be able to use it to employ extra staff. For instance, it could be used (and this also appeals to me) if I were to apply to be able to use money to lease an office so that I could have an electorate office outside Parliament House. So, in terms of what the bill is trying to achieve, it is unfair to put it simply in terms of MPs trying to get a free car, which I know has already been mentioned.

However, in the limited time that we have to deal with this measure, I do not believe that we will be able to tease out all the issues. This morning, some members spoke about the need for this measure to be revenue neutral. I am not convinced that, as it currently stands, it will be revenue neutral. In fact, I fear that it could involve the taxpayers having to pay more than they do currently to support us. I would like the opportunity to be able to check that.

If this chamber supports my move to report progress, the impact would be that someone in this chamber, when we resume in September, would be able to move to restore it to the *Notice Paper*, which means that we would begin again at clause 1 but would not be any further behind. In the interim, I would forward this bill to the Auditor-General and ask him to look at it to ensure that it is revenue neutral and, if it is not, to give some clues as to how we can make it so. I will not move that we report progress immediately, because other members may wish to express a point of view about that, and I do not want to move it and cut off the debate.

The Hon. R.I. LUCAS: I thank the Hon. Sandra Kanck for delaying the motion to report progress, and I will speak briefly on behalf of my colleagues. I join with the Hon. Terry Cameron in saying that I welcome the fact that a variety of views are being expressed at this stage in this chamber.

Frankly, as I look on another place, where there was little broad-ranging debate raising a variety of issues, I think the value of the Legislative Council is highlighted. Certainly, as members of the Liberal Party, we strongly support the notion that there is a free and wide-ranging debate, with different views being expressed by members. We welcome that, and we welcome the fact that the Hon. Sandra Kanck and the Hon. Nick Xenophon have both raised issues.

I indicate that Liberal members do not support a delay. We believe that this issue ought to be resolved today. I have been advised by a person who spoke to the member for Fisher that he provided the Australian Democrats, the Hon. Sandra Kanck, and the other Independents, with a copy of the bill about a week ago, and the Hon. Terry Cameron has indicated that he was provided with a copy as well. So, it is not that this bill was first seen by members in the last 24 hours.

We have not rushed the bill through this chamber with suspensions of standing orders. It was introduced yesterday and is being debated today. A number of important pieces of tax legislation—the stamp duties and the Rann water tax legislation—have all arrived in the chamber in the last 24 hours or so, and we have voted accordingly on those issues.

The Hon. Sandra Kanck: I had a briefing about the water matter a month ago.

The Hon. R.I. LUCAS: I presume that the Hon. Sandra Kanck is conceding that she did receive information last week on the member for Fisher's proposition?

The Hon. Sandra Kanck: I may have; I do not know.

The Hon. R.I. LUCAS: The member for Fisher maintains that and, whilst I disagree with the member for Fisher on a number of issues, I do not doubt that he believes that he provided that to all the Independents at that time and had discussions with a number of people. This is not an issue that has just arrived and been rushed through in the last 24 hours. For those reasons, Liberal members will not support an adjournment. We support the notion of resolving the issue this evening. The major issues such as appropriation and the tax bills have all been resolved: we can resolve this issue and move through the committee stage.

The Hon. NICK XENOPHON: In terms of the issues raised by the Hon. Sandra Kanck, I endorse those wholeheartedly. I think it is appropriate that progress be reported. I will be guided by you in relation to this, Mr Chairman, but let us put this in context.

I acknowledge the comments of the Leader of the Opposition that at least in this chamber, in terms of the way the Legislative Council operates, there has been full debate, and there is perhaps yet more debate to come in relation to these issues. I think that shows the benefits of this chamber and democracy in action in terms of the variety of views. I do acknowledge the magnanimity of the statements of the Leader of the Opposition, and I also acknowledge that the Hon. Bob Such has been good enough to speak to me about this bill and discuss my concerns with a view to attempting to address them.

I will outline very briefly my concerns in relation to this. If this bill is about giving the Remuneration Tribunal an independent look at what our entitlements are, why is it that we have subclauses 4A(3) and (4), which actually fetter the role of the tribunal? If members look at those clauses, they will see that subclause (3) actually fetters the role. Subclause (4) provides that, in making a determination with respect to the provision of non-monetary benefits for members of parliament, the Remuneration Tribunal must have regard to any non-monetary benefits provided under the law of the commonwealth or senators or members of the House of Representatives.

That is the issue: you are actually directing the tribunal to go down that path, and that is an area of concern. If we are serious about giving the Remuneration Tribunal broad and independent powers to look at the needs of members of parliament on this issue, that is one thing, but to direct it to go down a particular path to me indicates that in a sense you are directing the umpire in terms of the decision that should be made. That is how I read it, and I would welcome contributions from other members in that regard. For those reasons, I support any motion for progress to be reported.

The Hon. SANDRA KANCK: As far as receipt of this bill is concerned, I was not aware of it until yesterday when the Hon. Bob Such spoke to me about it. I have a copy of a fax with a heading from Parliamentary Counsel, which I assume came from the Hon. Bob Such, which my colleague the Hon. Kate Reynolds received. That was received by our office on 15 July, so the maximum knowledge that we have had of this is 48 hours. Although the Hon. Dr Such did approach me about it yesterday, I did not read that as meaning that this bill was going to be pushed through both houses of parliament within 24 hours.

Clause passed.

Clauses 2 to 3 passed.

The Hon. SANDRA KANCK: I move:

That progress be reported.

The committee divided on the motion:

AYES (3)

Kanck, S. M. (teller)	Reynolds, K.
Xenophon, N.	

NOES (14)

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

Majority of 11 for the noes.

Motion thus negatived.

The Hon. SANDRA KANCK: I indicate that, as a consequence of our not reporting progress, the Democrats will now oppose the legislation.

Clause 4.

The Hon. NICK XENOPHON: I move:

Page 3, line 26—Leave out subsection 4A(3).

As I indicated earlier, if this is about independence, the clause ought to give the tribunal an unfettered look at the issue of benefits rather than directing them in the way that the proposed clause does so. If members are serious about this being independent—

The Hon. R.I. Lucas: Test case.

The Hon. NICK XENOPHON: I would say that it is a test clause and relates to a clause that would ensure that the tribunal can look at benefits as it sees fit, so the umpire can indeed be independent. Essentially, that is what this clause is about.

The Hon. R.I. LUCAS: I thank the Hon. Mr Xenophon for his indication that this will be a test clause. He has two amendments—one following on clause 5—and the indication of a vote on this should be an indication of a vote on the package of amendments. As has been indicated by the Hon. Terry Cameron and others, and certainly speaking on behalf of my colleagues, the Liberal Party room supports the legislation as it exists. It is not attracted to the arguments put by the Hon. Mr Xenophon in relation to the amendments and the Liberal Party room's view is that we should leave the legislation as has been passed by the House of Assembly.

The Hon. SANDRA KANCK: I indicate Democrat support for the amendment.

The Hon. J. GAZZOLA: We will oppose the amendment.

Amendment negatived; clause passed.

Clause 5.

The Hon. NICK XENOPHON: That was a test clause and effectively it guts the other amendment. However, I make the point that if we are serious about having an independent tribunal look at issues of benefits in looking at motor vehicles, let us allow the tribunal to be truly independent and not point it in the direction of an outcome, which this subclause is doing, and that concerns me. As the clause reads—

Members interjecting:

The Hon. NICK XENOPHON: You are not letting the tribunal be truly independent.

Clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

The Hon. J. GAZZOLA: I move:

That this bill be now read a third time.

The council divided on the third reading:

AYES (14)

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

NOES (3)

Kanck, S. M. (teller)	Reynolds, K.

NOES (cont.)

Xenophon, N.

Majority of 11 for the ayes.

Third reading thus carried.

Bill passed.

BUDGET CUTS

Adjourned debate on motion of Hon. R.I. Lucas:

That this council demands the Premier direct the Treasurer to release all answers provided to him by ministers and departments to the question asked by the member for Heysen on 30 July 2002 in the parliamentary estimates committee on the issue of the detail of the government's $967 million in budget cuts.

(Continued from 9 July. Page 2784.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I oppose the motion. By letter to the Leader of the Opposition on 22 December 2002, the government released information on the budget savings strategy as requested during the estimates process for the 2002-03 budget. That information shows broken down the savings measures implemented for each minister. That information is available in *Hansard*. It provided a level of detail not provided by the previous South Australian government, in which the Leader of the Opposition was Treasurer. By way of contrast with previous governments, the letter to the Leader of the Opposition in December answered an estimates question rather than failing to answer and leaving the question on the *Notice Paper* until parliament was prorogued, as was the fashion with the former government.

This government has provided more information on budget savings than any government in the past. The Leader of the Opposition says that this level of detail is not sufficient. If so much detail is necessary, it is hard to know why he did not provide that level of detail when he was in government. Where was it then?

The Leader of the Opposition also referred to freedom of information requests that he submitted for further information on savings. On the subject of freedom of information, the opposition has nothing whatsoever of which to be proud. One would have thought that they would have the nous to keep away from making an issue of it. When in government, the Liberal Party routinely refused to release information. They routinely interfered politically in freedom of information requests. Consider the famous ETSA case over which the Leader of the Opposition presided. It took four years for Mike Rann to obtain information on the ETSA sale process and, in the end, he got it only because he became Premier. After four years of stalling—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, it's there. I have a letter from the Department of Treasury and Finance dated 2 July 2002 to Mike Rann, which states:

I refer to your application made under the Freedom of Information Act 1991 in 1998 for access to a range of documents concerning the sale of ETSA. The Departments of Treasury and Finance and Premier and Cabinet had not finalised their consideration of your application when you were elected into government.

So, that request was made in 1998 and they had not finalised it when he was elected into government on 6 March last year. That was the record of the previous government.

The opposition continues to ask for detail about savings measures in the 2002-03 budget, despite having received more detail than has been released by any government in the past. Whatever detail the Treasurer provides, we have no

guarantee that the opposition will simply not ask for more detail again. This motion represents the next step in a political game in which the opposition is attempting to portray the government as withholding relevant information. The fact is that this government has provided more information in its budget papers and subsequently than was the situation in the past.

This motion is not about genuinely seeking relevant information for some broadminded community purpose: it is about seeking information that can be used specifically to play games with the government's budget and savings strategy, to play upon community anxieties and to create misgivings about savings that have been legitimately made by the government, savings in many cases to fix the misspending of the previous government.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Why didn't you do it for seven years?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: You didn't. What rubbish! Whilst we understand why the opposition seeks information of this nature, the government is not obliged to waste public servants' time and consequently government moneys by continuing to break down this information until at some undetermined point it reaches a level of detail which the opposition is happy with. Of course, we know the game; we know that that would never be the case. Enough is enough! With this motion the opposition seeks to divert attention from its own performance and its own economic mismanagement when it was in government. Year after year they spent beyond their means. While the opposition is playing political games with the public and the media, this government is getting on with delivering its promise.

Let me also remind the house that back in January 2000 the Hon. Robert Lawson, who was responsible for FOI, in a letter to the Labor opposition said that one FOI request would cost $75 000 to process. He said that the Labor Party would have to pay if they wanted that information, but no information was supplied. That letter (dated 14 June 2000) from the Hon. Robert Lawson, then minister for administrative and information services to Mike Rann states:

> In my letter to you of 24 December 1999 I indicated the aggregate cost of complying with your freedom of information applications to ministers concerning staff development exercises and other matters exceeded $75 000. This estimate was based on the total of all of the government agencies' anticipated costs of undertaking the work. Following receipt of your letter of 13 January, I again contacted each minister requesting that their agencies review and reconsider the figures previously provided and confirm the breakdown of their estimates.
>
> Although I am glad to see that agencies have been able to reduce their cost estimates, the fact remains that the new total, $73 117, means that the compliance with these requests will substantially and unreasonably divert the agency's resources. The revised figures are detailed in the attached document.
>
> Accordingly, under Section 18(1) of the Act, I must formally refuse your application as drawn.

That was what we faced in relation to requests for information under the previous government—now opposition—which, despite having been supplied with a significant amount of information, which it would never supply, is now requesting more and more.

I remind the council that in its first budget the Rann government has made significant structural improvements to the state budget, and we believe we have the situation back on track to deliver a balanced budget. We allocated $1 465 million for high priority expenditure initiatives, particularly human services and education. That was in the first budget. We allocated a $160 million increase in spending in human services, representing a 3 per cent real increase.

However, to pay for that, the government made cuts. The aggregate amounts of those cuts and the breakdown by each minister have been provided to this parliament, and it has been incorporated in *Hansard*. As I said earlier, the name of the game that is being played here is that the opposition will continue to protest, keep playing the game and keep demanding more and more information, even though it was not prepared to provide it itself, so that it can claim that this government has something to hide. Enough is enough. The government rejects this motion.

The Hon. R.I. LUCAS (Leader of the Opposition): I will not be diverted in relation to the issue of freedom of information. I will just make one brief comment about it and will return to it at another stage when we have more time. The claims made by the government that it got no response at all for four years in relation to the ETSA requests are just simply untrue. Either one box or two boxes of information were provided to the Leader of the Opposition months after his first request. The letter being referred to is the continuing consideration of other issues in that same FOI request which, I concede, Treasury never processed during that time. It was within the capacity of the former Leader of the Opposition to take it to the Ombudsman as I am doing now, or an external court, as we may do when the government of the day does not comply with the time requirements of a request. It is untrue to say that there was no response to that. That is a diversion.

I want quickly to summarise what this motion is about. In the bilateral discussions every year, ministers have to go to the Treasurer and say, 'Here are our savings for this year as part of the $967 million.' So, if you are talking about the Department of Human Services, Family and Youth Services, the minister there would say, 'I'll cut $2 million out of child care programs, $2 million out of crisis care programs and $5 million out of the Housing Trust programs.' It is that sort of detail. It will add up to $10 million for the Minister for Family and Youth Services, and it might be $100 million over four years for the Minister for Human Services. All it will do is list the particular programs and the total amounting to the $967 million.

The leader of the government's talking about FOI requests costing $75 000 is just a furphy. This has nothing to do with that. All this information has already been collected. Every minister had the information forwarded to his or her office, and it was then forwarded to the Treasurer's office. So, there is no further cost at all. No-one has to go off chasing information. It is just this information which is sitting in ministers' offices and the Treasurer's office. All of it has been collected as part of the budget process and as part of the answer in the estimates committees. It is all there. All we are seeking to do is get that information.

I remind honourable members that, in the estimates committee, when he was asked the question, the Treasurer said that he had the answers. However, he said that he did not have time to deliver all those answers in the estimates and would forward a copy of the answers to the member for Heysen. That was the answer at that stage from the Treasurer. It was not, as is now being put by the Leader of the Government, 'This is outrageous; it is going to cost too much; this is much more information than we ever received.' None of that was offered by the Treasurer during the estimates committee over 12 months ago. He said to the Member for

Heysen, 'Yes, we have got the answers. I can read those onto the record if you want, but that will take too long so I will post them to you.'

The Member for Heysen was a new member and accepted that offer from the Treasurer, and since that day in July last year the government is refusing to release that information, which already exists. Separately, the opposition is pursuing an ombudsman freedom of information complaint, because the government is now saying that this involves parliamentary privilege—that is, that the information was prepared by public servants for a minister to an answer in the house and, therefore, it cannot be released because it is protected by parliamentary privilege. That is how silly this is getting. And we are now having to fight that under FOI.

That is not the debate at present: we are just saying, 'You have got answers.' The Treasurer promised he would provide those answers to the Member for Heysen. He did not say there was problem with it. He said, 'Yes, I have got it.' And all that this is saying is, 'Let's get the Premier to tell the Treasurer actually to deliver the information to the parliament and to the opposition.' It is information that used to be provided.

I conclude by saying that it is untrue for the Leader of the Government to say that the former government had never provided the information. I spent four years as Treasurer defending savings or cuts that the former government made in various areas and, whilst I might be accused of many things, I do not think I could ever be accused of not being prepared to front up and defend the various cuts which I had to either institute as an education minister in the first four years or which I had to defend in the next four years as treasurer. It is untrue to claim that the former government, certainly in the last four years when I was treasurer, ever shied away from the responsibility of saying 'OK, it's a difficult decision. We have made cuts in Crisis Care, we have made cuts in the Housing Trust, but we have done it for these reasons.' I urge the support of members for the motion.

The council divided on the motion:

AYES (9)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Lucas, R. I. (teller)
Redford, A. J.	Ridgway, D. W.
Schaefer, C. V.	Stephens, T. J.
Xenophon, N.	

NOES (6)

Gazzola, J. M.	Holloway, P. (teller)
Kanck, S. M.	Reynolds, K. J.
Roberts, T. G.	Sneath, R. K.

PAIR(S)

Stefani, J. F.	Gago, G. E.
Lawson, R. D.	Zollo, C.
Lensink, M.	Gilfillan, I.

Majority of 3 for the ayes.

Motion thus carried.

UNIVERSITY OF ADELAIDE (MISCELLANEOUS) 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.

Universities in this State and elsewhere are facing significant challenges to their operation; very few of these are academic. The most serious challenge for our universities is to continue to provide an innovative research and educational program with dwindling resources provided by the Commonwealth Government. In recent times universities have had to rely more and more on income derived from student fees and commercial activities, or reduce the volume and scope of their operations.

The University of Adelaide has acknowledged that the current structure and processes of the Council are not conducive to making optimum decisions about either its academic program or its commercial activities. The University is seeking to amend its Act to give its Council similar constituency and power as Flinders University and the University of South Australia.

While the Government sees the need for the University to have the freedom to operate within a more corporate structure, it is important for the University to meet community obligations and expectations for a higher education institution. This Bill therefore, establishes clearer lines of decision-making including powers of delegation while imposing heavy penalties for breaches of propriety leading to loss or damage to the University. The Bill gives protection by statute to the University's name and devices, and removes restrictions on the disposal of freehold property, that is land owned by the University but excluding land given in trust such as the North Terrace, Waite and Roseworthy campuses, so that it may operate more competitively in a commercial environment.

The Bill recognises the value of the Academic Board, the university graduate association and the Students Association of the University of Adelaide Incorporated by making the presiding officer of each an *ex officio* member of the University Council. It also allows for the election of two graduate members to replace the current Senate members.

The Bill will disband the Senate as a formal body of review although this role will be undertaken through other means. I take this opportunity to thank Senate members, and to recognise the contribution the Senate has made to the University for more than 100 years. The removal of the Senate gives effect to the Council as the central decision-making body in the University.

In line with the other universities, the Bill provides for the University of Adelaide to confer honorary awards on those whom the University thinks merit special recognition.

The Adelaide University Union is established under the current Act to provide necessary services to students. The Government is committed to preserving the autonomy of the Union but recognises the need for the University Council to have sufficient information for setting the fee for union membership. The Bill will ensure the Union reports its financial position to the Council.

The Chancellor of University of Adelaide proposed amending the university legislation in April 2002. A Discussion Paper containing the University's proposed amendments was circulated for public consultation in June 2002. Over 30 written submissions were received on proposed amendments and a series of meetings were held with interested parties. This Bill reflects the University's original proposals, tempered by the various consultations and submissions.

I commend this bill to the house.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment provisions

These clauses are formal.

Part 2—Amendment of University of Adelaide Act 1971

Clause 4: Amendment of section 3—Interpretation

This clause amends, deletes and inserts a number of definitions.

Clause 5: Amendment of section 4—Continuance and powers of University

This clause clarifies the composition of the University, and provides that the University may, with the exception of certain land vested in the University under a number of specified Acts, deal with University Grounds in the manner it thinks fit. The clause further clarifies that the University is not an instrumentality or agency of the Crown, and that the University may exercise its powers within or outside of the State, including overseas.

Clause 6: Repeal of section 5

This clause repeals section 5, a provision dealing with discrimination, as the subject is properly dealt with under specific legislation at both the State and Federal level.

Clause 7: Insertion of sections 5A and 5B

This clause inserts new sections 5A and 5B into the principal Act. These measures establish a degree of protection for the intellectual property of the University; in particular the title of the University, the logo or logos used by the University and the combination of title and logo, which is defined by the measure as an 'official symbol'. Together, the Bill defines these as being 'official insignia'. A number of offences are created under new section 5B relating to the use of official insignia without the permission of the University. The maximum penalty for contravention of section 5B is a fine of $20 000.

Clause 8: Amendment of section 6—Power to confer awards

This clause provides that the University may confer an academic award jointly with another University, and may also confer an honorary academic award on a person who the University thinks merits special recognition. The clause also makes a number of amendments of a minor technical nature.

Clause 9: Amendment of section 7—Chancellor and Deputy Chancellors

This clause amends section 7 of the principal Act so that there will only be one Deputy Chancellor appointed. The Deputy Chancellor so appointed will hold office for a term of two years rather than the current four year term.

Clause 10: Amendment of section 8

This clause clarifies the role of the Vice Chancellor as the principal academic officer and chief executive of the University, responsible for academic standards, management and administration of the University.

Clause 11: Amendment of section 9—Council to be governing body of University

This clause inserts a requirement that the Council must in all matters endeavour to advance the interests of the University.

Clause 12: Amendment of section 10

This clause substitutes a clarified power of delegation, including a power of subdelegation where the instrument of delegation so provides.

Clause 13: Amendment of section 11—Conduct of business of the Council

This clause provides that a quorum of the Council consists of one half of the total number of Council members plus one (ignoring any fraction resulting from the division).

This clause also makes a consequential amendment due to the reduction of Deputy Chancellors to one under this Bill.

Clause 14: Amendment of section 12—Constitution of Council

This clause provides for three new *ex officio* members of the Council, namely the presiding member of the Academic Board, the presiding member of the Students Association of the University of Adelaide Incorporated and the presiding member of the Graduate Association.

The clause provides for two new Council members to be elected from the graduates of the University, replacing the members previously elected by the Senate.

The clause also:

- makes a consequential amendment by removing the provision for members to be elected by the now-abolished Senate
- reduces the number of members elected from the academic staff to two
- reduces the number of members elected from the student body to two
- amends the term of certain members
- makes other minor technical and consequential amendments.

Clause 15: Amendment of section 13—Casual vacancies

This clause inserts a new subsection (3a) into section 13 of the principal Act dealing with a casual vacancy in the office of a member appointed under proposed section 12(1)*(h)*.

Clause 16: Amendment of section 14—Saving clause

This clause clarifies section 14 by providing that a decision or proceeding of the Council is not invalid simply because of a defect in the appointment of any member of the Council.

Clause 17: Insertion of sections 15 to 17B

This clause inserts proposed sections 15, 16, 17, 17A and 17B. These proposed sections reflect amendments to the *Public Corporations Act 1993* currently before Parliament, and provide for a greater level of honesty and accountability in respect of Council members, in keeping with the increasingly commercial nature of the operations of the Council. Contraventions of the proposed sections carry a maximum penalty of a fine of $20 000 and, in the case of proposed section 16, imprisonment for four years.

Clause 18: Repeal of sections 18 and 19

This clause repeals sections 18 and 19 of the principal Act.

Clause 19: Amendment of section 21—The Adelaide University Union

This clause provides that the Adelaide University Union must provide certain financial information to the Council, and the dates by which that information must be provided. This enables the Council to ensure that the fees set by the union are appropriate. The clause also provides that the union must not set fees except with the approval of the Council.

Clause 20: Amendment of section 22—Statutes and rules

This clause makes consequential amendments by removing references to the Senate. The clause also provides the Council with the power to constitute and regulate the Academic Board, and other boards of the University. The clause further provides that the Council can specify that certain offences be tried by a tribunal established by statute of the University.

This clause also clarifies the procedure for variation or revocation of a statute or rule, and clarifies that a statute does not come into operation until confirmed by the Governor.

The clause also removes the reference to 'regulations' from section 22.

Clause 21: Amendment of section 23—By-laws

This clause clarifies certain by-law making powers in relation to traffic control and trespassers. The clause also provides that a by-law must be sealed with the seal of the University, and transmitted to the Governor for confirmation. The clause also inserts new subsection (5), which states, for the avoidance of doubt, that section 10 of the *Subordinate Legislation Act 1978* applies to a by-law made under section 23.

Clause 22: Amendment of section 24—Proceedings

This clause provides that a staff member, as well as a student, may be tried by a tribunal established by statute of the University.

Clause 23: Amendment of section 25—Report

This clause removes the reference to 'regulation' in section 25.

Schedule—Transitional Provisions

The Schedule makes transitional provisions in relation to the members of the Council whose offices are to be vacated, and the members of the Council who are to assume office.

The Hon. R.I. LUCAS secured the adjournment of the debate.

ADJOURNMENT DEBATE

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

That the council, at its rising, adjourn until Monday 4 August 2003.

As this is the end of the session, there is a high probability that the house will be prorogued prior to that time, so the house is much more likely to resume on 15 September. This has been a very challenging and busy session for all members and I wish to thank them for their cooperation in dealing with a very significant legislative program. During this session, the government has introduced a large legislative package which delivered on the government's key election promises including: the raising of the school leaving age, the honesty and accountability package, sentencing guidelines, DNA testing, as well as other significant law and order reforms, just to name a few.

I wish to thank particularly the parliamentary staff for all their hard work during this session, especially over the last 48 hours. It is hard for staff when they have to concentrate and be in their chairs for hours on end. I know that it has been particularly busy, and I know that their support and guidance were appreciated by all members. I also wish to thank Hansard for their good work and patience with members, and for the work they do in polishing up the battered English they sometimes get from members like me.

I thank the President, for his leadership of the council, and both Whips, the Hon. John Dawkins and the Hon. Carmel Zollo—who is busy representing me at a function—for their work in organising legislation and generally making the passage of this council's work so smooth. There has been a change of faces during the session, and I acknowledge our most recent arrivals, Kate Reynolds and Michelle Lensink. I hope their time in parliament so far has been rewarding. I am sure that it will continue to be challenging for them in the future.

Finally, I should also thank all the staff of the parliament—the attendants and the ancillary staff—who perform all the functions around Parliament House that make our life in this place possible. I thank all members for their cooperation during what has been a fairly long session. It is probably unusual for a session to go so long. We probably had the shortest session on record (it lasted for about half an hour) back in February 2002, then we have had this long session which began on 6 March.

It has been a long session and I trust that all members will enjoy the break. I should not say 'break', because I know members of parliament work very hard during this time, but it is a different sort of work from the passing of legislation which we perform here in the chamber. I trust that you will appreciate the time away from the chamber and I look forward to the new session beginning in September.

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of the Liberal members in the chamber, I thank the Leader of the Government and all members for their preparedness to work together with other members in terms of trying to get the government's program and private members' program through. I thank you, Mr President, for your assistance. I thank the table staff, Hansard staff, and all the staff in Parliament House for their assistance. I join with the Hon. Paul Holloway in thanking John Dawkins and Carmel Zollo for their assistance. I also thank my colleagues because, not only do they put in the hours in the chamber, but, as you would know, Mr President, they are also here sometimes late into the night and the early hours of the morning, planning strategy and working together in a very collegiate fashion, and they have demonstrated that admirably again this week. I think their families ought to know that, as their leader, I acknowledge the hard work that goes on in planning strategy late into the evening and in the early hours, sometimes. It is not always recognised on the home front, so it is important to acknowledge it publicly.

Members interjecting:

The Hon. R.I. LUCAS: Exactly. I thank all members, as I said at the outset, for their willingness to work together. Sometimes, the last week can be a bit frenetic with pieces of legislation, but I think, by and large, the Legislative Council has demonstrated its worth and value, particularly on a controversial issue or two during the session. But, on all issues, there is a willingness to listen to argument and debate and, as I said, on one of the other issues earlier this evening the Legislative Council again demonstrated its worth and willingness to debate issues freely and frankly, with everyone expressing different points of view but, nevertheless, processing the legislation in the end.

With that, Mr President, I wish you well during the non-parliamentary sitting session of the year (rather than calling it a break), and we look forward to sitting again in September, whenever that date happens to be.

The Hon. SANDRA KANCK: I rise on behalf of the Democrats to concur with those statements. I thank you, Mr President, for your chairing. I thank all honourable members for their contributions. It has been a very long session (certainly the longest in my 9½ years in this parliament). We have managed to get through it without losing our tempers too often. Thank you, also, to the table staff and Hansard staff. I particularly want to thank the Clerk and the Black Rod (Jan and Trevor) who are always accessible and are the most wonderful, helpful people to deal with.

I am also unwilling to say that we are taking a break. I know that I will be seeing some members in the next couple of months in various committees that I am involved with, and I know that I will be seeing many members also in the corridors of this place as we come back here to do the work that we do, despite the public perception that we are all off on holiday. I know that we work very hard and you all know that we work very hard. So, in this non-sitting time I hope that life can get back on to something of an even keel when members can have time with their families and some nights at home.

The PRESIDENT: I take this opportunity to thank honourable members for their general good behaviour throughout the past 15 months since we were first brought together as a parliament. When next we sit officially we will have had the constitutional conference deliberative poll behind us and will be in a position to contemplate the future against the findings of the constitutional conference. During this period I was directed by you to represent you in the deliberations of the constitutional conference. I take this opportunity to give a brief report in that respect. On all occasions I pointed out the proud history of the Legislative Council and the contribution that it makes to legislature in our state. I pointed out at every public meeting that this was not the first time in 150 years that we were contemplating constitutional change.

We have progressively changed our constitution to deliver a system which provides stable government. There has not been a constitutional crisis that has not been able to be handled through the parliamentary process peacefully and in accordance with the rule of law. We have a proud history that would be the envy of many other administrations in other parts of the world. I have consistently, on your behalf, advocated that this is, indeed, a house of review, and that this parliamentary system provides two houses of review because, as all members are aware, you can introduce legislation here which must be reviewed, amended and altered by the other place and vice versa.

Not only is the Legislative Council a proper house of review, it is a proper house of review with teeth. That is the line that I have advocated on behalf of all members. I would say that it has been generally well accepted at almost every meeting, and any assessment of those meetings has been that there is a general acceptance by the community in the worth and the value of the Legislative Council. Indeed, in country areas there is a strong indication that people are not supporting the lowering of numbers of politicians (which is a general perception in the community); rather, in many cases, they are actually advocating that there ought to be more.

We look forward to the constitutional conference with some interest. In giving that brief report, let me say that I join with all members in praising our table staff and our messengers. On this occasion I want particularly to make mention of the catering staff at Parliament House. They have to put up

with members in tedious situations, who are tired and irritable. They do that cheerfully, and I think that they do provide us with a high standard of services. In our contributions and our recognition they are often overlooked, and I think they are worthy of praise.

Generally, I have been pleased with the way in which all members have conducted themselves. I am giving members 70 per cent, but I am also marking their report cards with a notation at the bottom, 'You can do better.' With those gratuitous words of advice, I wish all members a pleasant respite period over the next couple of months and, come September, look forward to the continuing good work on behalf of South Australians in Her Majesty's Legislative Council.

Motion carried.

MURRAY RIVER IRRIGATORS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement on River Murray irrigators made earlier today in another place by my colleague the Minister for the River Murray.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

JOINT COMMITTEE ON A CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

The House of Assembly notified its appointment of Ms V.A. Chapman, Mr J.R. Rau and the Hon. R.B. Such as its representatives on the committee.

RIVER MURRAY BILL

The House of Assembly agreed to the Legislative Council's alternative amendments in lieu of its amendments Nos 19 and 20 without any amendment.

CRIMINAL LAW CONSOLIDATION (SELF DEFENCE) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

WATERWORKS (SAVE THE RIVER MURRAY LEVY) AMENDMENT BILL

The House of Assembly agreed to the amendments suggested by the Legislative Council without any amendment and has amended the bill accordingly.

ADJOURNMENT

At 8.16 p.m. the council adjourned until Monday 4 August at 2.15 p.m.