LEGISLATIVE COUNCIL

Tuesday 20 July 2004

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

ASSENT TO BILLS

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

Australian Energy Market Commission Establishment,
Health and Community Services Complaints,
Pitjantjatjara Land Rights (Executive Board) Amendment,
Primary Produce (Food Safety Schemes),
Statutes Amendment (Budget 2004),
Statutes Amendment (Courts).

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to the following question, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: No. 127.

GRIMES, Mr P.

127. **The Hon. R.I. LUCAS:** In relation to the appointment of Mr. Paul Grimes as a Deputy Under Treasurer:

1. When was this position first advertised and how?
2. Who were the members of the selection panel?
3. How many people applied for the position and how many were interviewed by the selection panel?
4. Did the Under Treasurer have any discussions with Mr. Grimes about this position outside the selection panel process, and before the selection panel met to interview applicants?
5. If the Under Treasurer did have discussions referred to in question 4, what was the nature of those discussions, and how many discussions were held and where were they held?
6. Did the Under Treasurer meet with the Treasurer prior to the appointment of Mr. Grimes and advise the Treasurer that Mr. Grimes had a very close association with the Labor Party?
7. Does the Treasurer deny having had a number of conversations with Labor colleagues and others that 'two Labor men' had been appointed to the two Deputy Under Treasurer positions?
8. Does the Treasurer deny having had a conversation with Mr. Don Farrell (State Secretary, Shop Distributive and Allied Employees' Association) about Mr. Grimes' application for the position prior to his appointment?
9. Was the Treasurer advised that the Shop Distributive and Allied Employees' Association had provided some financial assistance to Mr. Grimes for university studies?
10. Were all Commissioner for Public Employment guidelines followed in the appointment of Mr. Grimes?

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

1. I am advised that a position of Deputy Under Treasurer (Ex D) was advertised as a contract appointment for up to 5 years in the SA Notice of Vacancies on 25/10/02, *The Advertiser* and the *Weekend Australian* on 26/10/02 and *Financial Review* on 1/11/02. It was also placed on the Treasury and Finance Internet site on 25/10/02. During the selection process it became evident that Mr Gino DeGennaro had accepted an appointment with the Department of Education and Children's Services, which meant that there were two Deputy Under Treasurer positions vacant. Discussions where held with the then Commissioner for Public Employment (Mr Paul Case) and approval was obtained to appoint two Deputy Under Treasurers.
2. The selection panel comprised:

Jim Wright	Under Treasurer;
Jim Birch	Chief Executive, Department of Human Services;
Elbert Brooks	Commissioner for Public Employment Representative;
Bill Cinnamond	Manager, Human Resources.

3. There were eleven (11) applications received for the position. Five (5) applicants were interviewed for the position.
4. I am advised that the Under Treasurer approached Dr Grimes to consider applying for the position. It is standard practice for CEOs, or employment consultants on behalf of CEOs, to head hunt possible candidates.
5. I am advised that the Under Treasurer and his wife had lunch with Dr Grimes and his wife to discuss the nature of the job and encouraged Dr Grimes to consider applying. This lunch took place on Sunday 13 October 2002, at Axis Restaurant at the Australian National Museum in Canberra during an otherwise private visit by the Under Treasurer. Any other discussion would have been by telephone and the substance confined to Dr Grimes confirming he would be an applicant. All candidates had the opportunity to discuss the position with the Under Treasurer if they wished.

The following information answers questions 6, 7, 8, and 9.

I am advised that the appointment of Dr Paul Grimes was conducted in accordance with the relevant Commissioner for Public Employment guidelines.

As Treasurer, I have not sought to influence the appointment of senior staff within the Department of Treasury and Finance.

Dr Grimes is eminently qualified for the position. I am advised that Dr Paul Grimes has the following key qualifications and experience.

He has a PhD and Master of Economics from the Australian National University. He also lectured in Economics at the Australian National University. He lectured in the MBA program, Managing Business in Asia. He was an Economics Advisor to the Commonwealth Treasurer and a Senior Economics Advisor to the Deputy Leader of the Opposition. He also held the position of Specialist Advisor, Budget Policy in Commonwealth Treasury. He was the General Manager of the Budget Policy Division in Commonwealth Treasury and was involved in the preparation of four Commonwealth Government Budgets, including the first accrual based budget. He worked very closely with Treasurer Costello and his staff on these budgets and has had extensive involvement in Commonwealth Expenditure Review Committee and related Cabinet processes. He led the preparation of numerous major budget reports, including the Commonwealth's first Intergenerational Report, and participated on numerous Commonwealth policy committees. He was a member of the Vertigan Review team of the Commonwealth Department of Finance and Administration's budget estimates processes in 1999.

If the honourable member believes that he has good reason to question the appointment of Dr Grimes, or for that matter any other senior public servant, I encourage him to bring forward his concerns to the Commissioner for Public Employment.

10. I am advised that the guidelines set by the Commissioner for Public Employment were all followed and included having additional meetings with the Commissioner to obtain approvals and to secure arrangements for the appointment of Dr Grimes.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry, Trade and Regional Development (Hon. P. Holloway)—

- Interim Operation of the District Council of Mount Barker—Littlehampton Concept Plan—Plan Amendment Report
- Regulations under the following Acts—
  - Australian Crime Commission (South Australia) Act 2004—
    - Summons
    - Transitional—Summons
  - Criminal Law Consolidation Act 1935—Termination of Pregnancy
  - Electoral Act 1985—Prescribed Authorities
  - Liquor Licensing Act 1997—Long Term Dry Areas—Golden Grove
  - Motor Vehicles Act 1959—
    - Mobile Phones
    - Mopeds
  - Road Traffic Act 1961—Compulsory Blood Testing—Variations

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

- Regulations under the following Acts—

Adoption Act 1988—Revocation
Reproductive Technology (Clinical Practices) Act 1988—Women's and Children's Hospital
Senior Secondary Assessment Board of South Australia Act 1983—Subjects
South Australian Health Commission Act 1976—
Audit of Prescribed Hospitals
Regional Hospital—Medicare Patients Fees
Dental Practice (General) Regulations 2003—Review of Regulation 5
Memorandum of Understanding between the Commonwealth of Australia and the State Government of SA—Provision of Care Arrangements in the Community for some Immigration Detainee Minors in SA.

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I bring up the report and minutes of proceedings and evidence of the committee.

Report received and ordered to be printed.

SELECT COMMITTEE ON THE MOUNT GAMBIER DISTRICT HEALTH SERVICE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I bring up an interim report and minutes of evidence of the committee.

Report received and ordered to be printed.

CITY CENTRAL PROJECT

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I lay on the table a copy of a ministerial statement relating to the City Central Project made on 19 July in another place by the Minister for Infrastructure.

QUESTION TIME

CITY CENTRAL PROJECT

The Hon. R.I. LUCAS (Leader of the Opposition): I direct my questions without explanation to the Leader of the Government representing the Treasurer on the issue of the City Central project. My questions are:

1. Have the Treasurer and the government received advice from Treasury and the Under Treasurer expressing concerns about aspects of the deal that the government has entered into in relation to the City Central project and, in particular, the extent of any taxpayer subsidy for this project; and, if so, will the Treasurer provide a copy of the advice that Treasury has provided to him?

2. What is the extent, if any, of any land tax or stamp duty exemption or concession that has been provided to all private sector operators associated with the City Central project?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those questions to the Treasurer in another place and bring back a reply.

BAIL ACT REVIEW

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question on the subject of bail review.

Leave granted.

The Hon. R.D. LAWSON: In June 2003, the families of two young victims of crimes committed by persons on bail wrote to the Premier and the Attorney-General. These were members of the McEwan and Mueller families. They referred specifically to the death of Sonia Warne on 6 June 2001 following injuries that she sustained from a vehicular collision which was caused by the dangerous driving of Christopher Clothier, who at that time was on bail on a charge of murder. Their request to the Premier and the Attorney-General was that 'they consider our plea for the bail law to be changed'. They looked forward to receiving their comments, and they expressed reasons why the Bail Act should be amended.

In *The Advertiser* of 19 July, the Attorney-General is reported as saying that only the day before he had ordered a report from the Director of Public Prosecutions into the current operation of the Bail Act. The Attorney-General was quoted as saying that he was open to suggestions regarding the act and would request advice from the Office of the DPP about the operation of the system before deciding whether to revisit the provisions of the Bail Act. At the same time it is also reported, by the authors of the letter I first referred to, that the Attorney-General had treated their letter with indifference, saying that he was not sure whether a different decision would have been reached by a bail board had one been established in accordance with their suggestion. My questions to the Attorney-General are:

1. What action did he take in response to the letter from the McEwan and Mueller families in June 2003?

2. Was any examination of the provisions of the Bail Act undertaken following that letter; if so, what was the result of those investigations or inquiries?

3. What does the Attorney-General hope to gain from the new inquiry he announced just yesterday about examining the current operations of the Bail Act?

4. Why was it only on 18 July this year that the Attorney-General commissioned yet another report on this issue?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those questions to the Attorney-General in another place and bring back a reply.

PAROLE POLICY

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Correctional Services a question on the topic of parolees.

Leave granted.

The Hon. A.J. REDFORD: This morning Benjamin Harvey, a paranoid schizophrenic, escaped from Glenside. He has a history of serious offending, including assaults causing grievous harm and burglary, and a lengthy history of substance abuse. I understand that the government has known of this escape since 6 o'clock this morning. I also understand that this prisoner is still at large and that no public warning has been given by the government in relation to this escape.

Mr Harvey was an automatic parolee released earlier this year under the government's automatic parole policy. He was

arrested earlier this month because of failure to comply with any of his parole conditions. He was to be put into James Nash House as it was the appropriate place for him, but there was no room—not enough beds—so he was sent to Glenside. I am informed that the prisoner went straight over the top of the minister's 14 foot wall that surrounds Glenside. I understand that this appears to be consistent with the government's revolving door policy when it comes to incarceration—what I was not aware of was that it was a voluntary revolving door policy on the part of prisoners. My questions are:

1. Does the minister agree that the system of automatic release on parole should be reviewed in light of this escape?

2. Has the corrections department assessed security at Glenside; if not, will the minister order an immediate assessment of security arrangements at Glenside?

3. Does this not support some of the criticisms made by Mr Scales in his letter of 2 July 2004 regarding the crisis in mental health in prisons and public institutions?

4. Why has no public warning been issued by the government in relation to this escape?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his questions, many of which will have to be referred to the Minister for Health in another place. The situation in relation to the first question—that is, does the minister agree with the proffering of automatic parole—is a matter for the Attorney-General, and I will refer the question to him. If there are questions in relation to the operation of automatic parole, certainly the government will look at that. In relation to security at Glenside, it can be breached quite easily because it is not a secure facility or a prison facility.

The Hon. A.J. Redford: Why did you put him there?

The Hon. T.G. ROBERTS: That is a different question. The status—

Members interjecting:

The Hon. T.G. Cameron: Can we have one person answer the question?

The Hon. T.G. ROBERTS: To have no interjections would be handy as well.

The PRESIDENT: All members will come to order. There are too many interjections, and Mr Cameron is not immune.

The Hon. T.G. ROBERTS: Thank you, sir. The security at Glenside has been an issue for a number of years, not only in relation to the security of the facility itself but also the nature of the people who are sent to Glenside. In relation to criticisms of the prisons and mental health facilities, there are problems in this state and in all states in relation to how facilities deal with people with mental disorders, not just in government facilities but also in private hospitals and the community generally. I think the last question related to why a public warning was not issued. I will refer that question to the relevant minister and bring back a reply.

MINERAL RESOURCES

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mineral exploration in South Australia.

Leave granted.

The Hon. R.K. SNEATH: Mineral exploration is the driver for the minerals industry. Without it, the minerals industry will slowly disappear. The government has set ambitious targets in the state's strategic plan, including reaching a level of exploration expenditure of $100 million per year by 2007. Could the minister provide information on the level of private mineral exploration expenditure and investment in the state?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for this most important question, and it is true that mineral exploration is the lifeblood of a continuing, healthy mining industry in this state. The present challenge for the government is to support increased mineral exploration investment to achieve the targets of the state strategic plan—a very ambitious target of $100 million of mineral exploration annually by the year 2007. To help achieve this target, the government has already announced a plan for accelerating exploration. This will see the expenditure of an additional $15 million of new money on projects that will remove impediments to exploration and mining in this state.

The expenditure on mineral exploration for the 2003 calendar year was $35.9 million. In 2004 the level of mineral exploration investment is expected to increase to about $40 million based on current projections. This is due to the effects of the government's plan to accelerate exploration, a global lift in exploration investment, dramatically improved commodity prices and the increased supply of venture capital. There will be some different challenges to achieving increased expenditure this year. For example, I understand that it is becoming difficult to obtain a drilling rig because there is such a high demand right across the country, and the shortage of drilling rigs will be one of the impediments.

However, through the plan for accelerating exploration, this government is taking a key role in revitalising and promoting exploration and mining investment, recognising the significant contribution that resource developments can bring to South Australia. I am confident that the level of mineral exploration in this state will increase significantly in the next few years.

APY LAND COUNCIL

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Premier, a question about funding for the APY Land Council.

Leave granted.

The Hon. KATE REYNOLDS: Over the past six months we have discussed and debated at length in this place the legitimacy of the current executive board of the APY Land Council and also the scope of its responsibilities and functions. Throughout what has been a period of great uncertainty and disruption, as far as I am aware no-one has questioned the council's core functions as first defined in the Pitjantjatjara Land Rights Act 1981. These functions include ascertaining the wishes and opinions of traditional owners in relation to the management, use and control of the lands, protecting the interests of traditional owners in relation to the management, use and control of the lands, and administering land vested in Anangu Pitjantjatjara. In order to carry out these functions, the APY Land Council receives land rights administration grants from the state and the commonwealth, with the bulk of the funding coming from the commonwealth.

As you would know, Mr President, the matter of the legitimacy of the current executive was resolved, for those members who questioned it, with the passing of the Pitjantjatjara Land Rights (Executive Board) Amendment Bill 2004.

Schedule 1 of that bill contained a clause that validated the term of office of the current executive. Its term now runs from 7 November 2002 until the next election. Despite the passage of the bill on 28 June, it appears that the federal government and possibly some state government departments and agencies are refusing to recognise the legitimacy of the current executive and consequently are refusing to release 2004-05 funding for land rights administration and for other core services such as road and airstrip maintenance.

In the short term—the very short term, I am told—this means that the APY Land Council will have to retrench some of its core staff. Without those staff, core functions will cease, services will be brought to a halt and ultimately I am told the view is that the future and the very lives of Anangu will be put at serious risk. My questions are:

1. Will the Premier put the status of the current executive beyond any shadow of a doubt by making and circulating a statement that acknowledges the legitimacy of the current executive, and will the Premier have that statement translated into Pitjantjatjara for circulation in the lands?

2. Will the Premier as a matter of urgency convey this statement in writing to the relevant commonwealth and state ministers and the relevant agencies and departments?

3. Will the Premier instruct all the members of the government's APY lands task force of the legitimacy of the current executive and urge them to do all they can to ensure that land rights administration funding and other core funding for 2004-05 is released without delay?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Although the question is addressed to the Premier, I should be able to answer some of the matters raised, and I will refer other parts of the question to the Premier. I was contacted last week in relation to the delay in funding that was to be released by the commonwealth, and I believe that there was a short delay in that funding being released. To my knowledge, that funding has since been released to the APY executive. I am not quite sure what funding programs or regimes the honourable member refers to, and I will refer those parts of the question to the Premier. Concerns about the release of funding by agencies to the APY executive has not only occurred since the status of the APY executive has been questioned. For as many years as I have been involved, both in opposition and in government, many of the problems associated with management of programs in the lands has had to do with the irregularities that occur from time to time in relation to funding releases.

Sometimes it is due to administrative problems at the APY end, but more likely it is to do with the transfer of funds from the commonwealth through ATSIC or ATSIS, after the change of the status of ATSIC to ATSIS occurred, and then the complicated methods by which funding streams were to be transferred into APY accounts and thereon to other funding regimes attached to APY. It is the government's intention to simplify those regimes through a different structure so that we can shorten the lines of responsibility, if you like, to make people accountable for making sure that those individuals, their organisations and private and government bodies are responsible for getting those funding streams to the Anangu Pitjantjatjara people as soon as possible.

There has also been some tide turned by the task force as to how that can be carried out. After the election (which I expect will be some time in September), we would hope that a different model of governance will be drawn up with the consultation processes with APY to bring that about. The consultation stages are in place and, hopefully, we will be able to get a form of agreement that brings the commonwealth, state and the APY funding bodies into line so that there is a more efficient and effective way of delivering money into the communities, whether it is straight into community organisations acting on behalf of APY, or whether it is in a form that is yet to be negotiated. I will refer the other parts of the question in relation to those areas with which the honourable member has concerns to the Office of the Premier and Cabinet and bring back a reply.

The Hon. KATE REYNOLDS: I have a supplementary question. Based on the minister's answer, I think I am right in assuming, but I would like confirmation, that a different structure is being developed for funding allocation, and I assume that that will be done by the APY task force. I would like the minister to confirm that. When does the minister expect that this different structure will be in place? I assume that this is different from the governance model that he is talking about.

The Hon. T.G. ROBERTS: The model I am talking about is one that we worked out with the Office of the Premier and Cabinet in conjunction with DAARE, and working with and negotiating through the APY over a period of time. The election being held and which we expect to take place in mid-September will be carried for a 12 month time frame. In that 12 months we would hope that in the discussions and negotiations with APY, the commonwealth and cross-agencies we would come up with a formula that would streamline those processes so that we have that cross-agency accountability and the partnership that is required to get the outcomes which the government and the standing committee have been seeking, based on the recommendations of the Coroner's report and the select committee's report that has now been transferred to the standing committee.

The Hon. R.D. LAWSON: I have a supplementary question arising from the answer. Is the minister able to indicate whether the Hon. Bob Collins will be able to resume his work as coordinator of state government services on the lands? If so, when is it anticipated that he might be able to resume those duties?

The Hon. T.G. ROBERTS: I am not sure whether it does arise out of the question, but, in regard to the good work that Bob Collins has started, we have departmental people who are continuing that work. Some of the work has been done in relation to the recommendations that he has made. I understand that there is an assessment being made on Mr Collins' health, and his availability will be determined by the nature of his injuries and his ability to carry out the onerous tasks. Those people who have travelled to the lands know that it is not an easy job to get around within the lands with the distances and rough roads. So, those decisions will be made soon in consultation with the physicians and with Bob Collins himself.

RAILWAYS, LEVEL CROSSINGS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Transport, questions about safety measures at rail crossings.

Leave granted.

The Hon. T.G. CAMERON: Today's *Advertiser* reported that the Australian Rail, Tram and Bus Industry Union

believes that poor safety measures at rail crossings in the state's North are posing a serious risk to train passengers, motorists and workers. Union secretary Ray Hancox is quoted as saying:

> There are a number of level crossings in country areas that are unsafe and are being ignored in favour of city upgrades.

He also said:

> South Australia has a lot of unsafe crossings out there, where we have near misses or incidents like this. Even if they just have the flashing lights, it is far better than just the stop signs.

The claim follows an incident at Virginia on Sunday night, when a car was hit by two trains after driving through a level crossing marked by only a stop sign. Two people suffered minor injuries when their Holden Commodore hit a stationary freight train at a level crossing on Moloney Road, Virginia, at about 7.15 p.m. The train driver, completely unaware of the crash, started the train and dragged the car about 10 metres before it became free. The occupants managed to free themselves moments before the Darwin bound Ghan train clipped it. Police were quoted as saying that the occupants of the car were lucky to survive.

The Australian Rail, Tram and Bus Industry Union is now calling for Transport SA's Level Crossing Advisory Committee, reformed in the wake of the 2002 Salisbury bus and train crash, to review country level crossings. My questions to the minister are:

1. Does he agree with Mr Hancox' statement that level crossings in country areas are unsafe and are being ignored in favour of city upgrades?

2. How many accidents have occurred at train level crossings in the past three years? How many level crossings have lights installed, and how many have just stop signs?

3. As a matter of urgency, will the government now direct the Level Crossing Advisory Committee to review immediately the safety standards of all country level crossings and, in particular, those where vision is poor, as well as those that have just stop signs, or does the government believe that all country level crossings are safe?

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

AUSTRALASIAN MEAT INDUSTRY EMPLOYEES UNION

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Justice and the Minister for Consumer Affairs, questions about the Australasian Meat Industry Employees Union.

Leave granted.

The Hon. T.J. STEPHENS: A constituent has contacted me and expressed considerable concern regarding the actions of the Australasian Meat Industry Employees Union. The constituent's late husband had been a member of the union for some 20 years. He was advised that he had become a life member and was entitled to a funeral fund benefit of $120 upon his death. Sadly, the gentleman passed away. At some stage between this letter and his death (although we are not sure when, because the union did not notify anyone), the union decided that it was suffering financial hardship and was unable to pay this constituent the $120 funeral benefit to which she was entitled as the gentleman's beneficiary—so much for solidarity. This begs the question: where are this union's funds going? My questions to the minister are:

1. Will he investigate whether the actions of this union to break this agreement are legal?

2. Will he provide the council with information on how widespread this practice is?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): The honourable member has made some allegations. I am not sure who the appropriate minister is to investigate them but, certainly, based on some of the other questions that we have been asked in this place, one needs to treat them with a great deal of scepticism before one should draw any conclusions. I will consider the matter raised by the honourable member and refer it to the appropriate minister.

SCHOOLS, PRIVATE

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation—

Members interjecting:

The PRESIDENT: Order! I cannot hear the Hon. Mr Stefani.

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 Education and Children's Services, a question about private school funding.

Leave granted.

The Hon. J.F. STEFANI: I refer to an article in today's *Advertiser* dealing with private school funding for the Naracoorte Christian School. From the article, it appears that a great deal of uncertainty has arisen about the federal Labor Party's commitment to private school funding. Members would be aware that funding is provided to private schools by both federal and state governments. My questions are:

1. Will the minister give an unequivocal undertaking that the state government will not reduce funding to the Naracoorte Christian School?

2. Will the minister advise what representations have been made to the federal leader in relation to Labor's funding policies?

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

ABORIGINAL REMAINS

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about repatriation of Aboriginal remains.

Leave granted.

The Hon. G.E. GAGO: I recall recently reading articles dealing with the repatriation of Aboriginal remains from museums and other institutions around the globe. I am sure that all members in this parliament would be aware of the practices of people and organisations in relation to the removal of these remains, at least historically. Indeed, I am aware that, when the Manchester Museum returned the remains that it held to tribal leaders last year, Mr Besterman, the Director of Manchester Museum, said:

> The act of returning Aboriginal skulls recognised 'our common humanity'. . . These remains were removed during the colonial

era. . . Their removal, more than a century ago, was carried out without the permission of the Aboriginal nations. . . in violation of the laws and beliefs of the indigenous Australian people.

He went on to say:

Nonetheless, by returning these remains now, we hope to contribute to ending the sense of outrage and dispossession felt by Australian Aborigines today.

Given this, is the minister aware of any repatriation of Aboriginal remains in this state and, if so, will the minister provide details to the council?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question—and it is a timely question—in relation to the repatriation of human remains. I am pleased to provide information to the council in relation to the repatriation of remains which took place during NAIDOC Week at Koonibba on the west coast. After more than a century of spending a world away from their traditional lands, remains of 31 Aboriginal people have been returned home to the West Coast of South Australia. After many years of discussions between the Department of Aboriginal Affairs and Reconciliation, the Wirangu Association, Koonibba Aboriginal Community Council, the South Australian Museum and the National Museum of Australia, the remains of 31 Aboriginal people have been repatriated.

Having said that, there are a whole range of remains in institutions all around the UK, and the removal and return of those remains is being negotiated. The remains were returned to what would be their final resting place in the local Koonibba cemetery. Aboriginal traditional elders Wilfred Sandamar, Warren Bryant and Barker Bryant conducted a smoking ceremony, which was attended by more than 250 Aboriginal people who came from Ceduna, Koonibba, Yalata and Adelaide. I understand that this act of repatriation has had a positive effect by strengthening relationships between organisations and communities and has also enhanced the sense of wellbeing within that community.

I would also like to congratulate all those individuals and organisations that are assisting in the process, including the tribal elders in the community, DAARE, the State Aboriginal Health Community, the Wirangu Association, the Koonibba Aboriginal Community Council, the South Australian Museum and the National Museum of Australia. Whilst the repatriation of some remains has taken place and some communities are celebrating their return, there are many communities still trying to deal with issues surrounding the return of remains to this state.

The Hon. CAROLINE SCHAEFER: As a supplementary question, is the minister aware that, in accordance with most Aboriginal tribal traditions, it is offensive to the Aboriginal people for other people to discuss the disposal of remains no matter how old those remains are?

The Hon. T.G. ROBERTS: I am not quite sure what the honourable member means by 'offensive', but there are traditions relating to non-Aboriginal people mentioning by name people who have died. There are also areas where Aboriginal people are prepared to celebrate issues affecting the return of remains, particularly those that have been repatriated from overseas.

RENAL DIALYSIS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the minister representing the Minister for Health a question about renal dialysis facilities for the Barossa region.

Leave granted.

The Hon. SANDRA KANCK: The Lions Club of the Barossa Valley has contacted the Democrats about a proposal that it has put to the minister for a renal dialysis service to be located at the Angaston Hospital. The Lions have already raised over $20 000 to be put towards setting up this service. Currently, residents of the Barossa who require renal dialysis travel to either the Lyell McEwin, the Royal Adelaide or the Queen Elizabeth hospitals. Treatment can take up to six hours three times per week, and the travelling time between the Barossa and metropolitan hospitals is an added burden for these patients.

I understand that there is considerable support for the plan within the medical community in the Barossa but that they have been told that only the Queen Elizabeth Hospital can approve the purchase of dialysis equipment. In addition, the argument has been put that it requires specialist skills to operate the equipment. The locals believe that, with a small amount of training, the nurses that they have up there would be able to do this. My questions are:

1. Does the Queen Elizabeth Hospital have the final say about whether or not a dialysis machine can be located in the Barossa?

2. What is the current cost of transportation of patients from the Barossa to dialysis units at the Lyell McEwin, the Royal Adelaide and the Queen Elizabeth hospitals?

3. Have costings being done on establishing a dialysis unit in the Barossa; and, if so, do such costings include the savings that would be made by not transporting patients to the metropolitan area?

4. Does the minister consider that the population of the Barossa warrants a local dialysis unit; and, if so, what will she do to assist the Barossa Lions Club to implement its plan?

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

ADELAIDE DOLPHIN SANCTUARY

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on the subject of the Adelaide Dolphin Sanctuary made by the Hon. John Hill in another place on this day

GAMING MACHINE VENUES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the minister representing the Minister for Gambling a question about enforcing the advertising code of practice for poker machine venues.

Leave granted.

The Hon. NICK XENOPHON: The current advertising code of practice was approved on 12 February 2004 after being formulated by the Independent Gambling Authority following an extensive period of consultation. I understand that it was circulated to poker machine venues in the latter half of February this year and came into operation on 30 April 2004. Clause 3(2)(g) of the code states that the gambling provider will ensure that, when it advertises its gambling products, the advertising:

does not make claims related to winning or the prizes that can be won—

(i) that are not based on fact; or
(ii) that are unable to be proven; or
(iii) that are exaggerated;

Clause 6, headed 'Definitions and interpretation', provides in subclause (3):

Subject to sub-clause (4), advertising will be regarded as offending against clause 3(2)(g) if it contains material—
(a) which is neither information which is reasonably believed to be factual nor opinion which is reasonably held; and
(b) which includes one or more of the following expressions (or anything analogous to them)—
(i) 'Win';
(ii) '$'.

Subclause (4) provides:

For the avoidance of doubt, sub-clause (3) does not apply to a sign or display which is in, or is visible from, a gambling area and which states the amount of—
(a) a particular prize which has been determined or is payable; or
(b) an approximation or estimate of a prize which can be won.

It has come to my attention that there are a number of venues which still have signs stating 'win' and which have the dollar signs on them—particularly a number of neon displays in venues around town.

In an article in *The Advertiser* of 16 July, the Deputy Liquor and Gambling Commissioner, Darryl Hassam, said that the office had received several complaints since the code came into effect, and he is quoted as saying:

We believe there are a number that do offend and we are dealing with them. Just because it has a dollar sign, doesn't necessarily mean it offends the code. We have to look at each example case-by-case.

My questions to the minister are:

1. What level of resources is available to the Office of the Liquor And Gambling Commissioner to ensure compliance with the various gambling codes?

2. What has the office of the Commissioner undertaken since 30 April to ensure compliance with the codes?

3. Has the Commissioner's office sought legal advice on the ambit of the code; and does it consider that a venue displaying the words 'win' or a dollar sign, or something analogous to it, is prima facie in breach of the code?

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.

CITRUS CANKER

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question about citrus canker.

Leave granted.

The Hon. CAROLINE SCHAEFER: Citrus canker was recently discovered in Queensland. It is an imported disease which reduces the fruiting of citrus trees and eventually decimates the tree. It threatens our export business but is not harmful to humans. However, it is vital such diseases be kept out of South Australia, and considerable amounts of the very meagre PIRSA budget are allocated to ensuring compliance in such matters. It has therefore greatly disturbed me to be told of a woman who brought five cases of fruit into South Australia—in broad daylight, via Pinnaroo—since the announcement of that citrus canker without any inspection whatsoever. My questions are:

1. What measures has the government put in place to increase vigilance, given that there is a greater risk at the moment of such a disease spreading into this state?

2. What is the government doing to ensure that this state remains free of citrus canker?

3. Have any additional inspections taken place; and, if not, why not?

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

PRISONERS, TELEPHONE ACCESS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Correctional Services a question relating to the availability of 1800 telephone numbers for inmates.

Leave granted.

The Hon. IAN GILFILLAN: I think most members would agree that it is reasonable for members of the public to have contact with members of parliament, whether they are in their electorate offices or in Parliament House. One of the enlightened aspects of South Australia is that we regard prisoners in prisons as still being members of the public, entitled to a vote and, by extraction from that, entitled to have contact with their member of parliament.

Parliament has a 1800 number to allow the public to make contact without having to bear the expense of timed calls when calling from outside the metropolitan area. This is in keeping with the practice of many organisations to provide a toll free service to facilitate communication with people living outside the metropolitan area. With this in mind, I provided the 1800 number to a prisoner at the Port Augusta prison as part of an ongoing conversation with him. I was surprised, however, to receive a letter from the Aboriginal Legal Rights Movement explaining that this prisoner had been refused access to the parliamentary 1800 number, and I quote from the request and the response, a copy of which has been provided to me. It states:

The Australian Democrats MLC Mr Ian Gilfillan has sent me a free call number to his office in Parliament House. I ask if it can be put on my phone list.

The reply was:

Not approved. Prisoners are not permitted to have 1800 numbers on the phone system.

However, I would assume it is for that very reason that the 1800 number is made available to the public. My questions to the minister are:

1. Does he regard it as appropriate for prisoners to be denied access to 1800 numbers when, surely, it is important for them to have such access?

2. Even if he regards a general ban on 1800 numbers as appropriate, does he agree that this ban should not apply to communications with members of parliament through our own 1800 number?

3. What steps will he take to ensure that the specific ban is lifted?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will investigate the matter of concern to the honourable member. I point out that 1800 numbers—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: No, it will be about as accurate as the other one. I will check out the reasons the

honourable member's constituent was denied access to the 1800 number. Normally I think there is a list of numbers that prisoners put forward for acceptance by the prison authorities as numbers that they normally contact. There are some security issues associated with the use of numbers, and harassment issues might emerge. If there is no case to deny a prisoner a 1800 number, I would certainly like to hear the explanation from the prison authorities; it may be that it is an operational matter that causes them concern. I will certainly get the information that is required and relay that to the honourable member.

The Hon. IAN GILFILLAN: I have a supplementary question. Is it fair to interpret the answer as meaning that the minister, in principle, agrees that the 1800 number available for calling a member of parliament in Parliament House, such as myself, in general should be available?

The Hon. T.G. ROBERTS: As I said, I will refer the issue to the prison authorities.

Members interjecting:

The Hon. T.G. ROBERTS: There are some circumstances in which I can see it would cause difficulties for not only prison authorities but also some members. But, in terms of the principle, I do not see that a 1800 number is different to any other personalised number that an individual within a prison would use if a request is made and there is a legitimate cause to ring that number. There may be technological difficulties in relation to that.

CADELL TRAINING CENTRE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question in relation to Cadell Training Centre.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that the Cadell Training Centre has been without a permanent general manager for the last 18 months. In that time the centre has had five acting general managers. My question is: will the minister indicate when a permanent general manager will be appointed to the Cadell Training Centre?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question. It is true that there have been a number of acting general managers at the Cadell prison. It is also true that there have been some issues relating to work practices that have made it difficult for some managers. Having spoken to the last general manager at length about the difficulties that—

The Hon. J.S.L. Dawkins: Permanent or acting?

The Hon. T.G. ROBERTS: Acting. The issues that were raised were the same as those that all professional people have in moving to regional areas, for example, educating children. There are a lot of professional people who like to move back—

The Hon. J.S.L. Dawkins: There is a good school at Waikerie.

The Hon. T.G. ROBERTS: Tertiary education is an issue. A number of issues in relation to family members were raised. If a professional manager has a professional partner who works perhaps in the metropolitan area that makes it difficult, as well. Those issues are being dealt with as management issues within correctional services. I hope that, for a whole range of reasons in relation to settling the management process at Cadell, there is a permanent manager within the Cadell system as soon as possible.

DRUGS

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 Health, a question on the subject of drugs in the community.

Leave granted.

The Hon. A.L. EVANS: According to a South Australian schoolchildren's survey released by the Department of Human Services, the use of drugs has increased from 1999 to 2002. Other recent reports in the media have highlighted the rising use in drugs such as ecstasy, cocaine, speed, ketamine, crystal meth and GBH. These reports indicate that harder drugs are becoming more widely available and cheaper. An article in *The Australian* on Wednesday 22 April also discussed this trend and increased drug use by young people. Given the current use in our community:

1. What strategies are in place at the moment to educate the community and young people specifically about the dangers of using these types of drugs?

2. Is the government considering allocating additional funds to community education about the dangers of these drugs? If so, will the funding be allocated to existing strategies or is the government considering new programs?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the Minister for Health in another place and bring back a reply. Drugs generally are being dealt with by this government since the Drugs Summit, which was held soon after we came into government. We are looking at a wide range of issues associated with the supply, distribution and use of drugs. A number of recommendations were made at the Drugs Summit that have been put in place, and a number still need to be carried out. The issue is a vexed one; it is not an easy question to deal with.

It is no good my giving glib replies to an important question like this because many communities such as our own in this state, which are replicated throughout Australia and overseas, have turned their minds to trying to deal with the problems associated with recreational and prescription drugs and the abuse of drugs within society. In the state we are trying to pick up some of the programs that are running internationally and interstate if they appear to be working. As honourable members in this chamber know, there are programs running interstate that we have not trialled but which other states and territories are trialling to see whether they can come to terms with some of the difficulties associated with drug abuse.

We are doing what we can in relation to these issues by studying a lot of the programs that are running so that we can adopt best practice for harm minimisation in the introduction of drugs into the state, and to cut off supply as much as we can. I think this government has put the issue up in lights in the time that we have been here. Cross-agencies are working with it. I will get a report of the strategies we have put in place for the honourable member and give some indication of progress in those areas where we should be making some gains, and perhaps outline some of the programs that we hope to introduce in the near future.

The Hon. T.J. STEPHENS: I have a supplementary question. Will the minister tell the council which programs are operating interstate and which of those he is keen to see implemented in South Australia?

The Hon. T.G. ROBERTS: I have responsibility for making sure that drugs are kept out of prisons. In the prison system we have adopted a number of strategies to make sure that the way in which drugs are transferred into prisons—which, in the main, is through visits—is stopped. We have the drug sniffer initiatives with the dogs, and we have a bill before us which, when it is passed, we will implement. We will trial the equipment that was bought by the previous government but which was not put in place. We hope to put it in place once the legislation is passed, and we hope to be able to cut off the supply of drugs from outside the prison system.

Where prisoners are prescribed drugs or are on the methadone program, we are using international best practice for the use of methadone as a substitute for heroin, and other substitute drugs are being trialled as well. In the case of the drugs outside prison in the community, again, I will bring back to the member some of the programs which are running that I think have some chance of success.

The Hon. T.J. STEPHENS: I have a further supplementary question. Will the minister outline any of the recommendations from the Drugs Summit which your government has actually implemented?

The Hon. T.G. ROBERTS: Again, I will not give the honourable member a glib reply; I will give a very detailed reply after contacting all of the agencies that have the responsibility for dealing with drugs or drug abuse within their agency areas of responsibility.

INDEPENDENT PRICING ACCESS REGULATOR

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister For Industry, Investment and Trade, representing the Minister for Energy, a question about the South Australian Independent Pricing Access Regulator.

Leave granted.

The Hon. D.W. RIDGWAY: The annual report of the South Australian Independent Pricing Access Regulator was tabled in this chamber late last year. I read with interest the foreword of the article which states that this week the South Australian Independent Pricing Access Regulator's (SAIPAR) last annual report on 1 July 2003 functions were transferred to the newly created Essential Services Commission in South Australia.

This commission has regulatory functions in a range of industries, including ports, railways and electricity. The transfer of SAIPAR's functions can be seen as part of the trend in Australian regulation away from a singular utility regulator, such as SAIPAR, to multi-utility regulators. It appears that the trend towards bigger regulators is set to continue. The establishment of a national economic regulator—the Australian energy regulator—has been agreed in principle by governments and might impact on the Essential Services Commission's role in the future.

It goes on to say that one of the arguments for such regulators is economies of scale. Another is that they will streamline and improve the quality of economic regulation across markets and gain greater regulatory certainty for investors. On these grounds, however, SAIPAR has performed well. It has performed its functions with fewer resources, including a significantly lower budget than any other comparable regulator in Australia. Its annual budget of $170 000 must be compared with a significantly higher planned allocation for the Essential Services Commission (of the order of three to four times higher) and significantly more staff to perform a very similar gas regulatory function. My questions are:

1. Why is the cost three or four times higher for performing a similar gas regulatory function?

2. How will this increased cost structure contribute to the Labor Party's election promise of cheaper energy for all South Australians?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those questions to the Minister for Energy and bring back a reply.

REPLIES TO QUESTIONS

SPEED CAMERAS

In reply to **Hon. T.G. CAMERON** (23 March).

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

1. The South Australia Police (SAPOL) has identified a number of positive road safety initiatives to reduce road crashes. One of the initiatives implemented was the introduction of Speed Camera Advisory Signs. The criteria used to select the locations for this signage was high casualty crash and recidivist speeding locations.

The locations chosen by SAPOL for the placement of these signs are:

1. Victor Harbor Rd, Mt Compass
2. Sturt Highway, Renmark area
3. Penola Road, Mt Gambier
4. Main South Road, Reynella to Hackham
5. Main South Road, Wingfield to Regency Park
6. Salisbury Highway, Parafield
7. Tapleys Hill Road, Fulham
8. Sir Donald Bradman Drive, Adelaide Airport
9. Hackney Road, Hackney
10. Grand Junction Road, Valley View

The Minister for Transport has provided the following information:

SAPOL provide a list of locations of where they use speed cameras to a large extent. SAPOL discussed the locations with the Department of Transport and Urban Planning (DTUP). As a result of negotiations with DTUP further refinements/adjustments were made to this list.

The Minister for Police has provided the following information:

2. In the previous twelve months crash statistics revealed:

Road	Fatal Crashes	Casualty Crashes
Victor Harbor Road, Mt Compass	1	14
Sturt Highway, Renmark Area	2	37
Penola Road, Mt Gambier	0	16
Main South Road, Reynella to Hackham	0	182
Main South Road, Wingfield to Regency Park	0	134
Salisbury Highway, Parafield	0	159
Tapleys Hill Road Fulham	3	202
Sir Donald Bradman Drive, Adelaide Airport	0	109
Hackney Road, Hackney	0	44
Grand Junction Road, Valley View	0	56

3. Speed Cameras duties performed at the nominated locations in the previous twelve months:

Road	Time speed cameras used	Total notices issued	Revenue
Victor Harbor Rd, Mt Compass	36	447	$62 368
Sturt Highway, Renmark Area	34	432	$53 932
Penola Rd, Mt Gambier	18	1 343	$158 462
Main South Rd, Reynella to Hackham	71	1 748	$213 312
Main South Rd, Wingfield to Regency Park	10	139	$17 853
Salisbury Highway, Parafield	25	643	$79 947
Tapleys Hill Rd Fulham	42	116	$12 371
Sir Donald Bradman Drive, Adelaide Airport	46	1 564	$186 885

Road	Time speed cameras used	Total notices issued	Revenue
Hackney Rd, Hackney	56	580	$74 833
Grand Junction Rd, Valley View	43	767	$94 349

AGRICULTURE, EDUCATION

In reply to **Hon. J.S.L. DAWKINS** (19 February).

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

Within the Place, Space and Environment Strand of the South Australian Curriculum Standards and Accountability Framework, all students in years 8, 9 and 10 have the opportunity to learn about sustainable environmental management practices.

Individual schools may also provide a specific agricultural program to assist students prepare for their chosen vocation. The nature of courses offered is a school-based decision and pathways to further education, training and employment reflect the demand of the local community.

For example, at Urrbrae Agricultural High School, agriculture is a compulsory subject in year 8, where students have the opportunity to develop knowledge and skills in a wide variety of plant and animal enterprises. These courses extend into year 9 and 10 and lead onto more substantial subjects offered through the SA Certificate of Education (SACE). A winery course based at Gepps Cross Girls School, which is a collaboration of 4 other high schools, allows students to learn the complete steps required to produce a bottle of wine and all the facets of running a winemaking enterprise.

In addition, many Area schools and regional high schools based in country areas provide specific agricultural programs for their students. These reflect a considerable resource demand but demonstrate the importance that my department places on the provision and access to agricultural courses.

A host of vocational pathways are now available to students in our State's schools. These pathways open a wide range of opportunities for students, including opportunities in agriculture, so they are able to meet their individual needs. National Vocational, Education and Training and TAFE modules have also been included within many year 11 and 12 subjects, which give students both secondary education and Industry/TAFE recognition.

The State Government understands that school has to be relevant to the lives and future careers of secondary school students, regardless of whether they are planning to go on to university, training or employment. That is why this State Government is embarking upon a significant reform of the SACE to ensure that the future needs of students and industry are met.

The Minister for Agriculture, Food and Fisheries has provided the following information:

As the former Minister for Agriculture, Food and Fisheries stated on 19 February in immediate response to the question, the Department of Primary Industries and Resources SA (PIRSA) contributes significantly to the promotion of agriculture and the opportunities for careers in the industry.

PIRSA has a presence at most major field days and agricultural events promoting new technology, its services, and the importance of agriculture to South Australia's economy and lifestyle. PIRSA also contributes significantly to media promotions of agriculture and projects to raise awareness of not just the farmer client but often the public in general.

The media department of PIRSA regularly writes and publishes articles on the opportunities in agriculture and natural resources in Open Gate, the PIRSA supplement to the Stock Journal newspaper.

During 2002 the former Minister for Agriculture, Food and Fisheries launched a major project, 'Careers in agriculture'. This was a $120 000 project funded by the Adelaide University and PIRSA. The project was in two parts—the first was a series of posters and brochures, a resource for students and parents regarding careers in agricultural industries. The second, 'Planet E' is a website that also is a very useful resource which promotes the same. More recently PIRSA were a joint partner with the South Australian Farmers Federation in a careers symposium with the Investigator Science and Technology Centre.

The Rural Communities and Education (RC&E) business group operates within the Agriculture, Food and Fisheries Division of PIRSA. It develops policy and implements initiatives relating to capacity development, leadership, education and training for our regions and rural industries. This group is actively consulting, supporting and operating in partnership with regional groups (eg Mallee Education Network, Agriculture KI), industry organisations (eg SAFF Education Group, Dairy SA, SA Seafood Council) and education and training advisory bodies (eg Agriculture and Horticulture Training Council and the Advisory Board of Agriculture (ABA)) and the educational sectors (viz. primary, secondary, vocational education and training and tertiary). It has assisted with funding of the Advisory Board of Agriculture Peter Olsen and the Lois Harris Scholarships for young people to further their agricultural studies. RC&E has funded a research study by the University of SA to develop indicators of rural SA community capacity. The group has also funded visits to the Roseworthy Campus of the University of Adelaide, (with overnight stays) of groups of Mallee school children to familiarise them with the opportunities for further education in agriculture.

Whilst the Minister for Education and Children's Services has jurisdiction over specific education and training issues within our schools, PIRSA officers will continue to collaborate with them to address the human capacity and development needs of both the regions and rural industries of this state.

BUSINESS ENTERPRISE CENTRES

In reply to **Hon. J.S.L. DAWKINS** (24 June).

The Hon. P. HOLLOWAY: Funding for the Salisbury Business and Export Centre (SB&EC) is to be paid in two equal instalments of which the first has already been paid and the second will be paid in six months time. This funding arrangement gives the SB&EC the ability to plan cash flow whilst the new de-centralised network of small business service providers is developed in consultation with the Local Government Association and all stakeholders.

This method of funding, and the notice given of our intentions, gives the BECs and the SB&EC the ability to ensure continuity of service whilst we build a better model for the support of small business in South Australia.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

In reply to **Hon. J.S.L. DAWKINS** (24 June).

The Hon. P. HOLLOWAY: The Chair of the Regional Communities Consultative Council (RCCC) accepted an invitation to attend the Regional Facilitation Groups (RFG's) Workshop held earlier this year.

As a result, the RCCC and RFG's agreed to refer to each other issues that need exploring or support.

The RCCC now invites members of the relevant Regional Facilitation Groups (RFG's) to the Community Forums held in conjunction with the quarterly visits of the Council to the regions. In addition, the Forum notes are distributed to all Regional Facilitation Groups following each visit.

Further discussions with the RFG's are planned to ensure ongoing exchange of information.

Since its inception, two members of the RCCC, Mr Reg Dodd and Ms Jackie Ah Kit, have resigned due to other commitments leaving eighteen members at this time.

BICYCLES

In reply to **Hon. IAN GILFILLAN** (2 June).

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

In the context of a SA Government tender process it is not fair or ethical to disclose information, which has been submitted by tenderers in good faith and which is provided in commercial confidence.

The successful tenderer will be subject to the SA Government policy for the Disclosure of Government Contracts which requires that details of the contract, including price, be made available on the SA Government Tenders website.

A rigorous process was undertaken to ensure that the best value for money tenderer was recommended. Value for money takes into account the qualitative criteria of capability, experience, methodology and management systems of the tenderers as well as their price. The successful tenderer met all of the requirements of the tender criteria and will provide best value for money in conducting the Bicycle Education program in South Australian schools. An additional 18 programs, across the State, will be provided over the next 3 years under the new contract, reaching around 1 500 more children than in previous years. This will add to the existing 39

programs that are already available in South Australia, allowing us to reach more school children.

The State Supply Board approved the procurement process and its recommendation of the successful tenderer.

Bicycle SA has not been 'denied a contract'. It was involved in a competitive tendering process, which was evaluated in accordance with approved State Government policies and procedures. Bicycle SA was afforded a debriefing on its tender.

Bike Education services under the new contract will commence in the third school term of 2004.

STAMP DUTY

In reply to **Hon. A.L. EVANS** (26 May).

In reply to **Hon. A.J. REDFORD** (26 May).

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

I am advised by RevenueSA that under the motor vehicle provisions of the Stamp Duties Act 1923 ("the Act"), stamp duty is payable on all applications to register or transfer the registration of a motor vehicle, based on the consideration paid or the market value. There are no provisions under the Act, which allow an exemption from stamp duty for charitable organisations seeking to purchase motor vehicles, nor are there any discretionary powers to enable the duty to be waived by the Commissioner of State Taxation.

Any further consideration for relief can only be contemplated in the form of an ex gratia payment. Requests for such payments have been considered on a case-by-case basis, with relief being provided to charitable organisations and other carer bodies in circumstances where a motor vehicle is provided solely or principally for the transportation of disabled persons under their care, and where the disabled persons are unable to use public transport as a consequence of their disability.

The provision of relief from stamp duty on motor vehicles is not the most appropriate mechanism for providing assistance to charitable organisations, as the benefit would be directly related to the number and turnover of motor vehicles used by the relevant charity rather than an assessment of the relative merits of providing assistance to the charity. The Government already provides direct grant assistance to a range of charitable organisations through a range of established programs which provide a more effective mechanism for distributing government assistance.

SMALL BUSINESS ADVOCATE

In reply to **Hon. R.I. LUCAS** (2 June).

In reply to **Hon. J.F. STEFANI** (2 June).

The Hon. P. HOLLOWAY: As of 30 June 2004, four of the five positions in the Office of Small Business have been filled, all from within the public service.

When the position of Small Business Advocate was transferred to the Director of the office of small business on 1 July 2004, one public servant attached to the Office of the Small Business Advocate had not found employment elsewhere. That person will be re-deployed.

KALAYA CHILDREN'S CENTRE

In reply to **Hon. KATE REYNOLDS** (13 November 2003).

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

1. The Director of the Kalaya Children's Centre agreed to transfer to another, similar worksite during a meeting on 2 May 2003 to facilitate a Review by Exception being undertaken at the Centre. Up to that date, performance and grievance issues had been raised with the Director during several meetings, which date back to 1999. In every case, the District Superintendent of Education met with the Director in the company of other appropriate support personnel to attempt to resolve the issues.

2. The Director of the Kalaya Children's Centre agreed to a transfer after negotiation with the Executive Director of Schools and Children's Services satisfied her that an appropriate replacement was available. The transfer was agreed to enable all of the potential participants in the Review to be assured that they would receive an equitable hearing. Concerns had been expressed to the District Superintendent prior to 2 May 2003 on the subject of relationships and feelings of harassment and so the transfer was negotiated to allay those concerns.

3. The Review, conducted between 3-6 June 2003 did not suggest or recommend the removal of the Director of the Kalaya Children's Centre. However, following careful consideration of the recommendations and further discussions with various people the Executive Director, Schools and Children's Services made the decision that it was in the best interests of both Ms Koolmatrie and the Kalaya Children's Centre that Ms Koolmatrie not return to the Centre. Ms Koolmatrie agreed with the Executive Director's decision. She requested that she remain at the Craigmore Children's Centre where she believed she was making a positive contribution.

Ms Koolmatrie's salary as a Director was maintained to the end of her tenure in January 2004.

At the beginning of Term 4, 2003, following a request from Ms Koolmatrie, it was agreed to place her at Kaurna Children's Centre.

4. The advertisement of known vacancies in leadership positions takes place early in the second semester to ensure adequate time for the Selection on Merit process to be conducted by the relevant District Director. Since the Panel process required in every instance is time consuming, it is standard Human Resources practice in the Department of Education and Children's Services to advertise positions at about this time of the year.

5. The removal, transfer and appointment of staff at any DECS worksite is the subject of scrutiny by officers of DECS who are required to follow and to document processes which have been established by industrial negotiation and Departmental policy. I am advised by officers of my Department that all of those processes have been followed at the Kalaya Children's Centre during the time indicated by the Hon Member. Appointment of Management Committee members has been in accordance with the Centre's constitution.

Each school and preschool is described by a Context Statement, which reflects its special or unique operation, including any cultural or specific requirements. This Statement is developed through consultation with the community led by the Management Committee. Through this process Kalaya is identified as an Aboriginal community facility in its context statement. The District Director considered this when undertaking a selection process for the new director. The appointment of culturally appropriate staff is the decision of the Centre Director.

YELLOWTAIL KINGFISH

In reply to **Hon. CAROLINE SCHAEFER** (1 December 2003).

The Hon. P. HOLLOWAY: The Minister for Agriculture, Food and Fisheries has provided the following information:

A private investigation of the incident has established that net damage resulting in the escape of Yellowtail Kingfish on 20 or 21 November 2003 was not caused by a government vessel.

I therefore advise that the government sees no cause to compensate the fish farm operators for damage or loss of stock.

TRADE AND ECONOMIC DEVELOPMENT DEPARTMENT

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

The Hon. P. HOLLOWAY: The total number of information services provided by the Small Business Services unit at the Centre for Innovation, Business and Manufacturing (CIBM), between March 2002 and April 2004, was 50 957

These were basic information and advisory services and represented the major proportion of the contact services provided by Small Business Services at CIBM.

GOVERNMENT ADVERTISING

In reply to **Hon. J.F. STEFANI** (1 June).

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

I am advised that, the amount spent by the State Government advertising the 2004-05 State Budget was estimated at $90 000.

This included:

$48 948.07 excluding GST on television advertising.

$14 450.06 excluding GST on radio advertising.

There was no press advertising.

The total includes a $800 fee for planning the media buy that was paid to Starcom.

This compares with the $190 053 that was spent by the previous State Liberal Government on advertising the 2001-02 State Budget.

GUERIN, Mr B.

In reply to **Hon. R.I. LUCAS** (15 July 2003).

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

Total remuneration paid to Mr Guerin between October 1993 and October 2003 amounted to $1.555 million.

Mr Guerin's remuneration was governed by the transitional provisions of the Government Management and Employment Act, 1985, not a contract with Flinders University. Those provisions applied when he ceased to be the Director of the Department of the Premier and Cabinet in October 1992 and entitled him to be remunerated as if he still held the position. They were not affected by the arrangement with Flinders University from October 1993.

Mr Guerin was probably not underpaid until the Brown Government took office in late 1993 and awarded a massive pay increase to Mr Michael Schilling as the new CEO of DPC. This led to a claim by Mr Guerin that he was entitled to the same increase. To what extent Mr Guerin's claim was justified was unclear due to uncertainty about the meaning of the 1985 transitional provisions.

The Brown Government had the opportunity to resolve the problem caused by the uncertainty about the 1985 transitional provisions and the huge pay increase it had given to Mr Schilling when it enacted the Public Sector Management Act 1995. However, it did not seek to do so. The Guerin problem was left to grow until the Rann Government took decisive action.

Although Mr Guerin had claimed he was entitled to an additional $1.15 million, this was not accepted by the Government.

To settle Supreme Court proceedings, Mr Guerin received $500 000 (in addition to superannuation and leave entitlements and payment of legal fees). That resolved his claim and also secured his separation from the public service.

MINISTERIAL RESPONSIBILITY

In reply to **Hon. A.J. REDFORD** (20 November 2002).

In reply to **Hon. J.M.A. LENSINK** (previously Hon. Diana Laidlaw) (20 November 2002).

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

1. The Minister for Environment and Conservation is responsible for all matters coming within his portfolio. On a working basis he may be assisted in some individual tasks by his Minister Assisting. Ministers will decide on the distribution of these tasks.
2. The ministerial code of conduct applies to all ministers and does not require amending in these circumstances.
3. See 1 above.
4. Ministers will deal with questions on their merits.
5. Not necessary. The order of precedence has no relevance to these arrangements.

In response to the supplementary questions, from time to time state governments have appointed ministers assisting where there are major priorities and major work to be undertaken, as this government intends, with environment and conservation issues.

In summary, ministers assisting help their portfolio ministers to meet the practical workload demands of their portfolio areas. More formal arrangements are established whenever necessary by delegations under the Administrative Arrangements Act 1994.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) BILL

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

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): 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.

The care and protection of children is a fundamental responsibility of any society. The Government recognises and accepts that responsibility and has made child protection a very clear priority.

This Bill is the latest part of the State Government's comprehensive child protection policy which the Government has been developing and implementing since first coming to office.

The Bill proposes the establishment of a Commission of Inquiry into whether there was a failure on the part of the State to deal with sexual abuse involving children while under the care, control or guardianship of the Minister.

The Commission's terms of reference will enable the inquiry to examine allegations of sex abuse involving children under the Minister's care and to report on whether there were any cover-ups or mishandling of cases.

Individuals can come forward to the Commission whether or not any allegations were previously made or reported.

Before I turn to the Bill, it is worthwhile to consider the comprehensive program of action and reform the Government has initiated.

Within three weeks of coming to Government, Robyn Layton QC was commissioned to undertake a far reaching inquiry into child protection in this State.

Ms Layton's report provides a plan for the protection and advancement of children in this State.

The Government is putting this plan into effect.

In the 2003-2004 Budget the Government allocated over $58 million for child protection related services and provided an additional 73 new child protection positions in the Department of Families and Communities.

The Government has also announced as part of the 2004-2005 Budget an additional $148 million to be injected into child protection across Government over the next four years. This means an extra 186 jobs in child protection.

We have also established the Child and Youth Death and Serious Injury Committee.

Just recently the Government established a Guardian for Children and Young People to advocate for and monitor children under the guardianship of the Minister.

On 9 June 2004 the Government announced a new independent Helpline designed to assist adult survivors of child sexual abuse.

The Helpline will enable adult survivors to tell their story, to make a complaint or to have an opportunity to seek advice and make an informed decision about action they might take.

The Government will fund the service and has been working with Relationships Australia to deliver the assistance program.

Specifically the program will:

- Establish a helpline which will operate from 9am to 5pm on weekdays to respond to the immediate needs of adult survivors and their families (information, counselling, referral to appropriate legal avenues to pursue civil and/or criminal action).
- Provide face to face counselling and case management.
- Link survivors to specialist counselling.
- Establish a group work program for survivors.
- Provide training to increase the skills of professionals who assist survivors of sexual abuse, and
- Provide training to organisations and institutions to develop appropriate policies and procedures to prevent sexual abuse and to respond appropriately when sexual abuse is reported.

The Government believes it is crucial that adult survivors are given a chance to break the silence of their own abuse and are able to speak about their experience with a qualified specialist with an understanding of the experience of survivors.

It is important that survivors are listened to, are able to explore legal remedies and are given access to longer-term therapeutic treatment.

The Government also strongly believes that paedophiles are brought to justice and prosecuted for their predatory behaviour against children.

A major positive development has been the removal of the statutory limitation against prosecutions for sexual offences occurring prior to 1 December 1982. The important role of the Hon. Andrew Evans in bringing forward this initiative should here be acknowledged.

Until this Government came to office in 2002 paedophiles and other sexual offenders were immune from prosecution for their pre 1982 offences.

The Rann Government was the first Government to support the removal of this protection.

There must be no safe haven, no protection for any paedophile who preys on our children.

Additional resources have been made available to allow the police to investigate the many hundreds of complaints about offences which date before 1982.

Recent events involving the arrest of a number of persons to face charges for alleged sexual offences committed against children many years ago vindicates the abolition of the immunity.

On 10 June 2004, the Premier together with the Attorney-General, announced comprehensive changes to the criminal sentencing law to protect children from sex offenders, in particular repeat offenders.

The Government will introduce into Parliament amendments to the *Criminal Law (Sentencing) Act 1988* to make child protection the paramount consideration when the Court sentences child sex offenders.

All other considerations will be completely subordinated to the need to protect children from the offenders.

The law will also be changed under the Government's proposals so that any person who commits a second offence against a child will be liable to be declared a serious repeat offender.

These offenders may, at the discretion of the court, be sentenced to a particularly severe sentence beyond the usual penalty that would apply in the circumstances of the case.

In addition, the Court would be required to impose a longer non parole period than would usually apply. A minimum non parole period of 4/5ths of the head sentence would be mandatory.

In other changes to the sentencing law already introduced by the Government to Parliament sex offenders who are sentenced to less than five years' imprisonment will no longer be eligible for automatic parole.

The proposed changes will mean that all sex offenders will have to come before the Parole Board which must take into account community protection when it decides whether or not to release a prisoner on parole.

Under the proposed changes announced on 10 June 2004, the Court will be given more power to order the detention of habitual sexual offenders.

The law currently allows the Supreme Court to order the indefinite detention of persons who the Court finds on psychiatric evidence are incapable of controlling their sexual instincts.

That power will be extended to offenders who are unwilling to control their sexual instincts.

The Supreme Court will also have the power to declare a person as unwilling to control their sexual instincts and therefore liable to indefinite detention if that person does not permit a Court ordered psychiatric examination.

At the moment the criminal law sets higher maximum penalties for certain sexual offences committed against children under 12 years of age.

The Government proposes to change the law so that the higher maximum penalties apply to offences against children under 14 years of age.

For example, the offence of Unlawful Sexual Intercourse attracts a maximum penalty of life imprisonment where the victim is under 12 years of age and 7 years imprisonment for those aged 12 to 17.

Under the Government's proposal the maximum penalty for having sex with a 12-14 year old child will increase from 7 years to life imprisonment.

Of course the maximum penalty for rape is life imprisonment irrespective of the age of the victim.

The Bill presently before the House complements the Governments previous initiatives. It also complements the Senate Community Affairs Reference Committee Inquiry into children in institutional care which took evidence in Adelaide in November 2003.

The Government believes that it has an ongoing duty to persons who as children were under the care of the State and were sexually abused.

The Terms of Reference of the inquiry are similar to those established by the Anglican Church when it commissioned the Hon Trevor Olsson to undertake an inquiry into the handling of allegations of sexual abuse and misconduct in the Adelaide Diocese of the Anglican Church.

Significantly the Commission will have the power to consider allegations whether or not an allegation was previously made.

The Government has announced that subject to the passage of the Bill it intends to recommend to the Governor the appointment of the Honourable Justice Mulligan as Commissioner to conduct the inquiry. Justice Mulligan is eminently qualified to undertake the inquiry. His competence and integrity are acknowledged not just within the legal community but amongst the broader community. Justice Mulligan is a person with outstanding intellect, compassion and patience. His appointment will ensure the pursuit of truth and an emphasis on healing and closure to the victims of abuse.

The Commissioner will be supported by a person with appropriate qualifications in social work or social administration and by a person with investigative experience.

The Commissioner will also be supported by legal and administrative staff.

It will have the power to summons witnesses to give evidence on oath, or to produce documents and can require witnesses to answer questions. Witnesses may be required to answer questions that may incriminate them but such answers will not be admissible in evidence against them in criminal or civil proceedings.

The Commissioner must take evidence in private but may, in the public interest, conduct any part of the inquiry in public.

The Bill contains extensive protections for victims of child sexual abuse and those who report child sexual abuse. The Commissioner in the conduct of the inquiry and the report on the outcome of the inquiry will be required to take all reasonable steps to avoid the disclosure of the identity of a person who has been or is alleged to have been the victim of a sexual offence while a child. That protection will extend to persons who have disclosed information about child sexual abuse, if the interests of justice require.

Persons who have in the past notified the authorities of cases of suspected child sexual abuse in accordance with their obligations under the *Children's Protection Act 1993* or earlier equivalent legalisation will also have their identity protected.

As a further protection for victims and notifiers, the Commissioner will have the power to exclude individuals or specified classes of persons from proceedings and prohibit the publication of evidence at the Commissioner's discretion.

The Commissioner will have all the protections, privileges and immunities as a Judge of the Supreme Court.

The Commissioner in the conduct of the inquiry will be required to take all reasonable steps to avoid prejudicing any criminal investigation or prosecution.

The Commission may refer individuals to any agency or service so that he or she may obtain counselling services.

The Bill provides for information relating to the Commission of a sexual offence against the child to be referred to the police or the Director of Public Prosecutions.

The Commissioner will also be able to refer any matter that comes to his or her attention that is not directly related to the terms of reference to any other person or agency. This will enable the Commissioner to refer for example allegations of physical violence to the Commissioner of Police for investigation.

The Commissioner will be required to complete and present the report of the inquiry to the Governor within six months of the commencement of the legislation or such longer period as the Governor allows.

The Minister responsible will be required to table the report in Parliament within 5 sitting days after report by the Governor.

In conclusion, the proposed Commission of Inquiry will inquire into any allegations of sexual abuse by any person who and the time of the alleged abuse was a child in State care.

The Commission will be required to report on whether the matters alleged were properly handled by the State.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Interpretation

This clause sets out the defined terms used for the purposes of the measure.

4—Constitution of commission

A commission of inquiry is to be established with the terms of reference set out in Schedule 1. The commission is to be constituted by a person appointed by the Governor.

5—Procedure

This clause sets out various matters relevant to the proceedings to be conducted for the purposes of the Inquiry. The Commissioner will not be bound by any rules or practices as to procedure or evidence, and may inform himself or herself

in such manner as the Commissioner thinks fit. The Commissioner will be required to seek to adopt procedures that will facilitate a prompt, cost-effective and thorough investigation of any matter relevant to the Inquiry. The Commissioner will be required to take all reasonable steps to avoid prejudicing any criminal investigation or prosecution. Hearings will be conducted in private, other than where the Commissioner, in the public interest, determines to conduct a part of the Inquiry in public. The Commissioner will also be required to comply with a request from a person to provide evidence or to make submissions in private.

6—Power to require attendance of witnesses etc

An authorised person will be able to issue a summons requiring the person to appear to give evidence, or to produce evidentiary material, or both.

7—Obligation to give evidence

The Supreme Court will be able, on application by an authorised person, to require a person to give evidence or to produce evidentiary material for the purposes of the Inquiry.

8—Provision of support

The Minister will, after consultation with the Commissioner, engage a person with appropriate qualifications in social work or social administration to assist in the conduct of the Inquiry and a senior investigations officer. The Minister will also be able to appoint other persons to assist in the conduct of the Inquiry.

9—Confidentiality and disclosure of information

This clause relates to the production of confidential information and to the mechanisms that are to apply to avoid the disclosure of the identity of certain persons.

10—Provision of information

The Commissioner will be able to adopt a system that will provide for the provision of identifying information to the Minister or other appropriate official (including a police officer). The Commissioner will also, under an arrangement with the Commissioner of Police, be required to furnish any information concerning the commission (or alleged commission) of a sexual offence against a child arising during the course of the Inquiry, to the Commissioner of Police, other than where the material is thought to already be in the possession of a police officer, or where the Commissioner has determined to provide the relevant information to the Director of Public Prosecutions.

11—Completion of inquiry and presentation of report

The Inquiry is to be completed within 6 months from the commencement of the Act, or within such longer period as the Governor may allow. A report is to be delivered to the Governor on the completion of the Inquiry and the report will be tabled in Parliament.

12—Protection from proceedings

The proceedings will not be subject to review proceedings in a court.

13—Privileges and immunities

This clause provides for the protection of authorised persons, witnesses and other persons participating in the Inquiry.

14—Self-incrimination

A person will not be able to refuse to provide information or to provide an answer to a question on the ground that the information or answer might incriminate the person or make the person liable to a penalty. However, the information or answer will not be admissible in other proceedings.

15—Further provision relating to mandatory notification

This provision will ensure that the protections afforded to "mandatory notifiers" under the *Children's Protection Act 1993*, in relation to any proceedings in court, are maintained.

Schedule 1—Terms of reference

This Schedule provides for the terms of reference for the Inquiry.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

PASTORAL LAND MANAGEMENT AND CONSERVATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 July. Page 2007.)

The Hon. KATE REYNOLDS: I indicate our support for the bill. We believe that it will clarify a number of matters in relation to indemnity, the right to privacy and protection of certain areas and the right to remove uninvited and unwelcome persons from pastoral lands subject to an indigenous land use agreement. However, we have a number of concerns we would like to place on the record.

First, we are concerned that the consultation in relation to this bill has been very narrow. Undoubtedly, the industry bodies were extensively consulted, but I understand that, in relation to indigenous communities, formal consultation occurred only with the Aboriginal Legal Rights Movement and not with any other indigenous representative bodies. Sadly, this is an all too familiar situation for indigenous people—too little talking, too late, and when it does happen it is usually on whitefella land and on whitefella terms.

We circulated the minister's second reading explanation to a number of organisations but no organisation that responded (other than ALRM) knew about those proposed changes. Not surprisingly, they have told us of their concerns about this. Many Australians, both black and white, are struggling in a genuine attempt to grapple with native title issues at national, state and local level; and, make no mistake, this is about native title and self-determination and inclusion or exclusion, depending on where you sit. Being left out of the discussion on this again leads to more frustration, despair and, for some people, suspicion about what the government may be trying to achieve, regardless of how beneficial the outcome might be in the long term.

I would like to comment on some of the points made by the minister in his second reading explanation on 26 May. He said:

> The state government supports negotiations to address issues associated with native title claims in South Australia.

I think it is important to place on the record that the current funding for native titleholders to negotiate an ILUA is barely sufficient, and in fact some groups have told us it is not sufficient to address the power differential of the negotiating parties. Just the costs of engaging legal advice to negotiate the rights of indigenous people in relation to pastoral lands is significant, and if this bill (as the government and the opposition have suggested) will make it possible for further ILUAs to be negotiated—and I should add that we would hope that that is the case—then the total amount of funding made available to bodies and people negotiating on behalf of traditional owners must be increased. This is what support for negotiations should mean. The minister said:

> The negotiation of an ILUA is one way of clarifying the uncertainties which arise from native title claims and potentially conflicting rights in relation to land affected by native title claims.

It is our view that pastoral land rights over any pastoral lease in South Australia under the act since 1851 should not be 'potentially' in conflict with a native title claim over any such lease.

The inter Aboriginal issue of cultural access to lands outside any territorial area is not justiciable under the Pastoral Land Act, and the native title legislation has not been enacted under a policy to limit Aboriginal access to lands but rather to ensure that Aboriginal people with a valid native title claim to land have guaranteed access within their own territory. To interpret this policy as one that expressly intends to limit any other Aboriginal access, in the view of some indigenous people, is wrong. Although executive action may extinguish native title, it may not extinguish Pastoral Land Act rights,

and to claim that it is justified to do so owing to the Native Title Act is wrong—and it would be a totally new policy to do so.

The South Australian government, in our view, needs to hold itself directly accountable to all the affected Aboriginal interests if it were to attempt to extinguish statutory rights under the guise of the proper operation of native legislation. The minister said:

A series of court cases, including the South Australian De Rose Hill decisions, have confirmed that native title rights may coexist with other land interests under pastoral lease. Since 1851 Aboriginal people have had rights set out in pastoral leases and legislation to travel across, stay on and conduct traditional pursuits on pastoral land. An ILUA on pastoral land can deal with the ways in which such rights or possible rights are exercised.

In fact, I have been advised that this last statement offers opinion only and, in our view, needs independent legal confirmation. Since coexistence between pastoral land rights and native title is law, long held statutory rights must not be abrogated except after direct negotiations with the parties to be affected. To defeat these rights without a fair hearing is to defeat a legitimate expectation that they remain. The minister said:

An ILUA cannot determine native title rights and interests; only the courts can do that. An ILUA can, however, deal with the practical interests associated with the coexistence of potential native title rights and other interests in the same land.

That last sentence implies that there is an opinion that practical issues extend to resolving practical conflicts by an ILUA, but an ILUA is a legal and not an administrative agreement, and the view that it is an effective way to resolve any practical issues is an opinion only and may need, again, independent legal confirmation. It is my understanding that the practical issues associated with the coexistence of native title and pastoral lands act rights do not extend to abrogation of the pastoral land act rights, which is what the executive policy framework for that act intended. The minister said:

An ILUA is a voluntary agreement and can, for example, provide a framework which might assist in better protection for Aboriginal heritage or diversification of land use, or deal with a range of non-native title matters.

I have been advised that this last statement again offers opinion only and needs independent legal confirmation. The minister said:

There are a number of areas, tourism and conservation being perhaps the most obvious, where cooperative ventures between native title groups and pastoral lessees could be mutually beneficial.

Again, I have been advised that these cooperative ventures in these areas need separate legal and equitable agreements and may not be piggybacked onto an ILUA without express legal authority to do so under the Native Title Act, and it has been suggested to me that to do so without proper legal authority may put the legal effect of the ILUA in doubt, which I am sure none of us would want to happen. The minister said:

Historically, pastoral leases and the principal act allowed all Aboriginal people the same rights to access any pastoral land. This may have been inconsistent with traditional Aboriginal law and custom which was at times based on very strict territorial rights and restrictions. These access rights, however, did recognise the impacts of European colonisation, which resulted in displacement of Aboriginal people from land used for agricultural and other intensive uses. Traditional law and custom could still operate to limit the practical effect of such rights.

Traditional law and custom still operate to limit the practice referred to but they do not abrogate it. It remains a part of traditional law and custom for access to be available according to traditional law and custom and traditional protocols. Some indigenous people have put to me that this is no reason for the South Australian government to interfere in a working arrangement of traditional law and custom and not only seek to abrogate these statutory rights of longstanding but to seek to abrogate those working parts of traditional law and custom that allow access across and into different territories. The minister said:

It is generally expected that, in accordance with traditional law and custom, an ILUA will recognise priority rights for the native title groups over the relevant pastoral land, compared with Aboriginal people from other communities.

This is, I believe, an untested assertion by the government made without any consultation or negotiation with the affected Aboriginal interests. The minister said:

Unless section 47 of the principal act is modified, it is not possible to have an ILUA registered under the Native Title Act 1993 of the commonwealth where any such priority is proposed because of the inconsistent rights which would exist.

Again, it has been put to us by people who gave us feedback on the bill that this is exactly the situation and that this protects Aboriginal interests. They say that the solution is not to favour one Aboriginal group at the expense of every other Aboriginal interest when traditional law and custom are adequate and proven to manage fair and just access over the long term. I think that certainly goes to highlight the complexity of the situation and the need for more extensive consultation earlier than this. The minister said:

A system of access rights managed through ILUA parties will provide a level of comfort and certainty which does not exist at the moment for any of the parties. Notice of activities can assist both parties in maintaining a level of privacy. An ILUA can also introduce some flexibility in covering non-Aboriginal spouses, for example.

Whilst we certainly agree that this bill will provide some clarity around access, it has been suggested to us that this assertion is not true and that ILUA parties would already have Pastoral Lands Act rights of access which are certain, and it has also been suggested to us that this bill introduces a new level of uncertainty. Only time will tell.

Lastly, the minister said, 'An ILUA cannot affect matters such as persons undertaking work for a pastoral lessee or access for government officers as this does not relate to section 47 access.' One of the people who responded to our request for comments said:

If these categories of rights are exempt, why aren't the prior Aboriginal rights being treated with an equality of legal respect, unless it is because they are not accepted as equal rights in any sense by the South Australian government, even though many of these other rights which are not to be affected are either created under statute or recognised by or within South Australian legislation, which is the same level of enactment as the current section 47 Pastoral Land Act rights of Aboriginal people?

This person went on to say that not to respect the strength of these prior Aboriginal rights is having two types of legal rights in South Australia: these lesser Aboriginal rights and these higher non-Aboriginal rights, and this person suggests that ILUAs are in this higher category solely because they are legal rights by a form of statutory agreement with non-indigenous people. I think this comment is difficult to disagree with.

However, having made all those comments, we do sincerely hope that this bill will shift some of the rhetoric about outcomes for Aboriginal communities into the world of reality—notwithstanding, of course, that this is the world dominated by non-indigenous decision-makers and non-indigenous powerbrokers. We will certainly do what we can

to hold the government to delivering real outcomes for indigenous communities, not just outcomes for governments or commercial interests and, we suspect in this case especially, mining interests.

We agree that properly negotiating agreements with informed consent that give consideration to the fundamental principles of rights are the way forward to establishing a strong and sustainable basis for effective relationships between indigenous and non-indigenous people over the access, use and management of land. In the past, of course, in this country (including South Australia) we have what has been described by my federal colleague, Senator Aden Ridgeway, as a convoluted system plagued with uncertainty, problematic and expensive processes and continuing and growing resentment. No-one would argue that this has to change, but determining native title and then negotiating agreements in relation to land is a moving feast, and it will continue to be so for many years yet. We suspect that for a time, at least, changes to this act in relation to the rights of indigenous people to traverse pastoral lands may add to the confusion.

In discussion with representatives from the minister's office yesterday agreement was sought and obtained, I think, that the government would, if re-elected in 2006, commit to a comprehensive and formal review of the impact and appropriateness of this package of amendments within five years of the passage of the bill. As Senator Ridgeway has also said, and he knows better than anyone in this place, 'we have come too far to throw this away, to put up with a system that delivers for no one.' In closing, I would appreciate the minister putting on the record the government's commitment to undertake such a review.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank honourable members for their contribution to the debate. Following a request from the opposition lead speaker on the bill in the other place, the member for Bragg, the Attorney-General agreed to provide further information on the issue of confidentiality relating to the requirements of the proposed public register, clause 48A. I have the following response from the Attorney-General:

There may be aspects of ILUAs which parties will wish to keep confidential. With respect to proposed section 48A, this is particularly likely if the location or significance of Aboriginal cultural sites or the location of significant areas of bush medicine or bush tucker is recorded in an ILUA. The problem with disclosure of such information is that it may well attract attention which results in less protection than if no disclosure is made. The details required by clauses 48A(2)(a), (b) and (c) will all be available on the public record because of the requirements of section 199B of the commonwealth Native Title Act to have this information available on the Register of Indigenous Land Use Agreements which is maintained by the national Native Title Tribunal. Clauses 48A(2)(d) and (e) are worded differently in only requiring information relating to the relevant terms of an ILUA. This provides flexibility as to exactly what information is disclosed.

If for some reason particular restrictions on access of Aboriginal persons under an ILUA were required to be kept confidential, the public register could record that there are restrictions on access by Aboriginal people and direct people where to obtain the relevant information from one or more of the ILUA parties. Similarly, if an ILUA contained agreed restrictions on public access to particular places but some of the information about the significance of the protected place was required to be kept confidential, the public register could record that there are restrictions on access by people to a particular area or areas and direct people where to obtain the relevant information from one or more of the ILUA parties.

It should be borne in mind that the only relevant offence under this act that can be committed is a person failing to leave an area protected under an ILUA after being told to leave by an authorised person. Discussion will always take place with ILUA parties about the information to be placed on the public register. This will assist in achieving the right balance. The state being a required party to these ILUAs will also assist in clarifying the issues during negotiation of an ILUA.

The shadow attorney-general raised a number of questions in his second reading contribution, and I turn to those. The first matter raised was whether there is any relevant information about proposed new section 46A(2) which allows an ILUA to cover land that is occupied by a lessee but is technically part of an adjoining lease, that is, where the boundary fence line is not on the lease boundary. This is a common situation in the pastoral areas. Sometimes fencing discrepancies are minor and sometimes they are large. There are no specific examples of ILUA negotiations raising this issue that can be reported, but it is certain to arise in future negotiations. In some cases it may be preferable for lease boundaries to be adjusted to match fence lines as part of an ILUA process, but this can be expensive when done in a piecemeal way. Unless this proposed new section 46A(2) is utilised, there may be significant gaps in the area to which the parties wish an ILUA to apply.

The second matter was a question about the immunity provided under proposed section 46B(1) referring to both the drafting of the clause and the mischief the provision seeks to overcome. The relevant wording of proposed section 46B(1) provides, succinctly:

> Subject to this section, no civil liability attaches to a party to an ILUA for injury, damage or loss—
>
> (a) caused by another party to the ILUA;

The words 'subject to this section' cover the proviso in clause 46B(4) that no change is made to the operation of statutory compensation schemes such as third party coverage related to motor vehicle accidents or workers' compensation.

An ILUA involves a contractual agreement between the parties. The mischief that the clause seeks to overcome is the potential for a particular party to an ILUA to bear additional risk for harm to third parties caused by other parties to the ILUA merely because of the relationship created by an ILUA. The drafting reflects the government's belief that it is not appropriate that any party to an ILUA should bear additional risk for harm to third parties that they do not cause. The easiest example of potential concern relates to a potential claim against a pastoral lessee for failing to take action to prevent risks of harm to third parties as part of the lessee's occupier liability duties.

Currently Aboriginal people can exercise their section 47 rights on pastoral land without communicating with or seeking the approval of the pastoral lessees. An Aboriginal group camping on pastoral land lights a fire and through negligence the fire escapes into a neighbouring pastoral lease causing harm. Under current law the neighbouring pastoral lessee might successfully sue the responsible Aboriginal people but, given the terms of section 47, the pastoral lessee of the land from where the fire commenced could not be held

liable because they are not in a position to supervise the Aboriginal people involved.

By contrast, under an ILUA, the pastoral lessee will generally be informed of the presence of the Aboriginal people and may be in a position to limit places of camping or control or give advice about the lighting of fires. It is not hard to imagine a claim on behalf of the neighbouring pastoral lessee arguing that the pastoral lessee was aware of the potential risk of fire escaping but failed to take appropriate action to ensure that the Aboriginal people involved managed their fire properly. There may also be similar concerns for a native title group, although clearly less likely to arise because there are few situations where it could be suggested that a native title group was in a position to prevent harm caused by a negligent pastoral lessee. The immunity also means that the state is protected from any argument that the state should supervise pastoral lessees or native title groups because of an ILUA relationship.

The proposed new section 46B(1)(a) provides a wide indemnity. It is not helpful in our view to say in what ways or places the immunity will apply. That might only result in exceptions being unintentionally created. Each party will remain potentially liable for injury, damage or loss that they cause to other parties to an ILUA under the normal law. Parties will need to have in place or consider protection from such liability through insurance or other means. Some minor misunderstanding has apparently occurred with suggestions that the immunity affects the relationship between the ILUA parties. That is not the case. The immunity means that party A is not responsible for harm to someone caused by party B. If party B damages party A, it is certain that party A is not responsible for the harm caused to themselves by party B. It is appreciated that the wording of the clause is brief, but is considered that it provides the most appropriate immunity consistent with the position described above.

The third matter raised by the shadow attorney-general dealt with the matter of noting or disclosure of an ILUA to put potential purchasers on notice. The noting on a lease was incorporated in proposed new section 46C of this bill in the house. The amendment was suggested by the shadow attorney-general relating to disclosure at time of sale of a lease under the Land Agents Act. These disclosure requirements are covered in the Land and Business (Sale and Conveyancing) Act rather than the Land Agents Act. The Attorney-General is responsible for the relevant legislation and has agreed that he will refer this proposal to the Office of Consumer and Business Affairs to ensure that appropriate disclosure occurs at the time of sale. Pastoral leases are not the only land interest with potential to be subject to an ILUA and hence it is proposed that the whole position should be dealt with under the land and business (sale and conveyancing) regulations rather than under this bill.

There are also questions as to when an ILUA affects land. The ILUAs relating to mining exploration on pastoral lands would not appear to be relevant to sale of a pastoral lease, for example. There may be issues about how to deal with aspects of an ILUA that are confidential. This may be dealt with by requiring appropriate disclosure by a vendor of the nature of any confidential matter but leaving the actual handing over of the confidential parts of an ILUA document until the conveyance occurs and the new lessee becomes a party to the ILUA. It may also be appropriate to require disclosure at any time after an agreement is lodged for registration under the Native Title Act rather than waste several months to the date of registration. All of these matters will be considered, and appropriate requirements proposed, in line with the honourable member's wishes.

Fourthly, the shadow attorney-general dealt with proposed new section 48B and the ability of a pastoral lessee or native title group to require trespassers to leave pastoral land the subject of an ILUA. The government agrees that it is helpful to amend the bill to make it clear that such rights are restricted to land to which the relevant ILUA applies and has presented an appropriate amendment. I should correct one matter mentioned by the shadow attorney-general relating to new section 48B. It is worded to allow a pastoral lessee or their employees to request a trespasser to leave pastoral land where the trespasser is interfering with the activities or areas of interest of the native title group and also allows the native title group to request a trespasser to leave a pastoral lease where the trespasser is interfering with pastoral activity.

Clause 48(12) similarly provides that a pastoral lessee or their employees can act to prevent interference with places given special protection under clause 48(2a) of the bill. It may well be that persons are interfering with a cultural site or taking bush tucker set aside for the native title group. In the absence of these provisions, the pastoral lessee would be unable to prevent damage to the interests of the native title group. Equally, there may be occasions where the native title group is in a position to prevent harm to pastoralist's interests where the pastoral lessee or its employees are not in the vicinity. They cannot do so without these provisions. While these provisions may not be commonly used, they assist in sending out the message that interference with legitimate activities on pastoral lands is not condoned. The sort of cooperative arrangements that ILUAs and this bill might lead to are one way of ensuring that the sparsely populated Outback areas are protected and nurtured.

Finally, I am pleased that a compromise has been agreed on the issues raised in the other place by the member for Stuart, Mr Gunn. The government is pleased to support the amendment negotiated with the member for Stuart and the opposition spokesperson on primary industries. The amendment is seen as improving the administration of the lease assessment process and the confidence which pastoral lessees and others have in the outcome. I commend the bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I apologise for omitting part of my comments. When I responded in the second reading debate, I omitted comments in relation to matters raised by the Australian Democrats. As a result of their consultation on this bill the Australian Democrats have noted that there are concerns from some Aboriginal people about the effect that ILUAs may have on access rights of Aboriginal people who are not part of a particular native title group. This matter was discussed in the second reading speech and a number of safeguards noted. Advice from the Australian Native Title Tribunal and the Crown Solicitor's Office makes it clear that changes must be made to section 47, otherwise it is not legally possible to register an ILUA over pastoral land. The advent of native title does mean greater rights for a native title group compared with Aboriginal people from other areas following recognition of a native title group as traditional owners of an area.

This and a number of other matters arising from ILUAs in pastoral lands require some experience before the outcomes will be clear. We do know that there are many

potential benefits from ILUAs. There are also likely to be some problems. I doubt that this will be the last occasion when parliament is debating a bill related to native title on pastoral lands. To take account of the concerns we have raised, the Attorney-General has agreed that, if a review has not already occurred through an appropriate forum, it would be appropriate for a review to occur in five years time. Discussion will need to occur as to a suitable forum. I hope that in five years there will be a lot of experience with ILUAs to provide a basis for a useful review. I trust that that answers the matter raised by the Hon. Kate Reynolds.

The Hon. R.D. LAWSON: I indicate my thanks to the minister and his advisers for the comprehensive response he provided in his second reading speech. I look forward to the opportunity to study the response in detail, because these are quite technical matters. I also indicate thanks for the government's foreshadowed amendment, which has been placed on file, in response to a suggestion I made during the second reading debate. I look forward to the committee stage.

Progress reported; committee to sit again.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 19 July. Page 2034.)

The Hon. IAN GILFILLAN: A year ago in this place, I expressed extreme disappointment in the second Foley budget. In our opinion, it was a deceptive budget that failed to offer real solutions to the problems facing our state. As we now look over this third budget, I am pleased to see that the Treasurer has learned some valuable lessons but, to paraphrase T.E. Lawrence, 'We are still far from Damascus.' My colleagues have already addressed much of the budget. The Hon. Sandra Kanck spoke of the lack of funding for infrastructure, and the Hon. Kate Reynolds lamented the lack of transparency and funding for disability programs.

I would like to begin by detailing some of the pleasing things to be found in this budget. I will then discuss some of what we regard as glaring omissions—what could be called the herbs and spices which could have been added to the mix to make the budget an altogether tastier dish but which were left out, for either safety or lack of vision. The increased resources for the offices of the Director of Public Prosecutions and the Coroner have been greatly needed. Both have been grossly underfunded in the past, and it is good to see that they will at last receive a substantial injection of extra funds. The DPP has been under extreme stress in recent times, and this has seriously impaired the conduct of the office. With the likelihood of increased workloads as a result of the government's law and justice policies, it is important that our judicial system be funded to cope. Honourable members, and many members of the public, would realise how serious this matter is with the impending retirement of the Deputy Chair.

I also add that the Attorney-General is intent on increasing our remand rates in South Australia (as is evident in the media), and extra cash for the Department for Correctional Services would be wise. We already have the highest remand in custody rate in the nation, and I fail to understand why the Attorney-General would want to increase it further. These are people who have been charged with an offence but have not yet had their day in court. They must retain the presumption of innocence and must be treated with respect while awaiting trial. It is an indictment that some have been waiting for years.

The additional funding to the Coroner is also welcome. He plays a valuable role in our community. Essentially, he is the Ombudsman for the dead, or a 'speaker for the dead', if Orson Scott Card will forgive the use of that term. I note that this extra funding will assist the Coroner in the performance of his duties, as amended by the Coroner's Act 2004. This will see a greater degree of accountability from the government ministers and departments that are the subject of coronial recommendations. We will also see the Coroner for the first time reporting directly to parliament through a dedicated annual report to this place. Previously, reporting from the Coroner's office was chiefly statistical in nature and combined with a report of the Courts Administration Authority. This new vehicle will give the Coroner much greater freedom of communication to this place. It is my hope that this will prevent repeated recommendations of the Coroner falling through the cracks and being ignored.

It is pleasing to see that the government is beginning to learn the lesson of public-private partnerships (PPPs, as they are known). While much vaunted in the early days of the government, these creatures have waned as the government has learned the stark truth that they are not the do-all tonic that was once promised. The feasibility of building the new women's prison and youth detention centre is not an attractive commercial operation, particularly not while the state's correct policy, in my view, is not to outsource the management of prisons. I take the opportunity once again to caution the government's approach to PPPs. They will either saddle the state with ongoing, overly high charges or, as with the prison, are of no interest to the private sector.

A notable feature of this budget is the plethora of tiny tax cuts: stamp duty, payroll tax and debit tax. One is tempted to remind the Treasurer that it is not the number of tax cuts but the quantity and quality that count. Here we have seen much-needed and welcome relief for first home buyers. However, it is relatively light relief. Other states have done more, but it is essential that the federal government address the inequity of the housing market created by its capital gains tax. Federal reform is essential if we are to ease the housing boom and make housing more affordable for first home buyers and renters. Perhaps it is time for reinvigorating the Housing Trust once again to supply public housing and not just welfare housing.

I have spoken previously in some detail about these tax cuts. On the whole, they are far too small to have the impact that is truly needed. They have been calculated to be only skin deep and will heal quickly over time as the economy continues to grow, so the impact on the balance of the budget will be minimal. It is a mean-spirited Treasurer who sets cuts at the edges. Home prices will continue to rise, and any gain to home buyers will soon be lost. However, taxes are not the only source of revenue to the state; they make up only $2.7 billion. The bulk of the rest comes from the sale of goods and services and commonwealth grants. It is both interesting and shameful to note that, while the overall tax burden on the state has dropped by $3 million, we find that expected revenue from the sale of goods and services has increased by $50 million. This is the result of increases in prices on everything—from car registration to train tickets.

The former Liberal government made a habit of building its surpluses with funds from the South Australian Asset Management Corporation (SAAMC) and the left-over investments of the State Bank, which even now continue to

trickle in additional funds for the government. Dividends from the corporation were drawn upon to balance the budget. Each year they ended up not being needed and, hence, were available to balance the next budget. It is somewhat ironic that the first Labor budget surplus was built with these same dividends. I am pleased to say, however, that we have seen the last of those days. I do not mind saying that I was concerned that the Labor government would find that accounting tool too tempting, but it seems that the State Bank will finally be put to rest.

Instead, Labor has been much more creative. After a deficit last year, by raising fees Treasurer Foley has given birth to the 'multitrip' surplus. Every commuter, when they buy their train, tram or bus ticket, notices the increased price. They can get that warm fuzzy feeling knowing that they are helping the government build a tidy nest egg, an egg not to be cracked until the election.

The budget surplus is estimated to grow to $126 million next year and to $165 million by 2007-08. Given the conservative nature of budget estimates, as pointed out by the Hon. Rob Lucas yesterday, who knows how high these figures will rise? Revenue has also increased through commonwealth grants. GST funding is beginning to pile up. The revenue is expected to exceed the guaranteed minimum amount (GMA) in 2003-04 and into the future. The GMA was negotiated under the intergovernmental agreement on the reform of commonwealth-state financial relations when the GST was introduced. It was a transitional arrangement to guarantee a minimal level of funding to each of the states and territories.

With the GST revenue grants to increase by 2.8 per cent in 2004-05 and approach the projected growth in the GST pool in the forward estimates, the GMA (guaranteed minimum amount) is a crutch that we no longer need. Commonwealth grants also include the national competition payments. We will be expected to pass the Chicken Meat Industry (Arbitration) Amendment Bill 2004. This piece of legislation has been designed to ensure that this state is not penalised $2.9 million in the next round of national competition policy payments. I will speak of that bill when it comes before us. However, the state's dependence on the national competition payments is within the scope of the bill we are currently debating. These represent a relatively small source of revenue for the state—$40.1 million in the year just gone.

I note that the government is budgeting with the assumption that deductions are likely to be in effect for the coming year. However, this allowance in the budget is not borne out in how government ministers treat this place. The Chicken Meat Industry (Arbitration) Amendment Bill and the Barley Export Marketing Bill are two cases in point. While I recognise that in a state budget every extra dollar that can be directed into the budget is precious, government is about making decisions, and it is about prioritising. It is time that the state government recognised that national competition policy has gone too far. I would argue that it did this many years ago, but now this assertion cannot be disputed. The barley marketing export single desk, the liquor licensing act, chicken growers, taxi licences, compulsory third party insurance and gambling—all these have been targeted by the national competition policy and thereby intrude into the sovereign powers of the state to determine its own affairs.

I agree with the Premier that the federal government should cancel the national competition policy fines and suspensions, but the state government cannot simply sit on the sideline as a spectator and claim that its hands are tied. It must go into bat for our farming communities. I am appalled that our state government is caving into the NCC's ideological agenda and pushing the deregulation of barley and chicken meat marketing for the sake of a few million dollars. In the face of a $50 million budget surplus and surpluses forecast to grow in the future, it is nothing more than an insult to the farmers of this state. The price the National Competition Council is asking for us is just too high. Why should we sacrifice balanced decisions made on behalf of the wellbeing of the people of this state through the blackmail of a few million dollars held back in this payment?

The strategy that the government is pursuing with the budget is clear. It has been designed to achieve the objectives of the South Australian strategic plan. In the Treasurer's own words: '. . . this year's state budget—and subsequent budgets—will help to achieve the objectives set out in the plan.' The establishment of this plan was a bold move by the government: either it is confident of achieving the goals set out in the document or it is confident of its ability to spin its way out of unmet targets. I am a cynic when it comes to this government but, to be fair to the government, it is probably a bit of confidence and a bit of spin. There is no surprise in that one of the key objectives is the hallowed AAA credit rating. It is the Treasurer's coveted precious ring—it haunts him. The single-minded pursuit of the AAA credit rating could have a devastating effect on the state, particularly given the way in which Treasurer Foley is pursuing the ring. It is a ring that is not of gold but of brass.

Mr John Spoehr, in a recent article in *The Adelaide Review*, goes further, suggesting that the closure of the Mitsubishi foundry could put the AAA credit rating too far out of reach for the moment. Mr Spoehr said:

> . . . the primary target in the State Strategic Plan is achieving a AAA credit rating—and that now hangs in delicate balance in the wake of the Mitsubishi crisis. The state government was comfortably on track to secure its intended AAA prize: projections of successive state budget surpluses and the elimination of net debt in the general government sector by 2005-06 would have been enough to attract a credit rating upgrade. But the announcement of Mitsubishi's plans to slash its manufacturing and work force in SA changed the outlook considerably.
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> Responding to the state budget, Rick Shepherd from credit ratings agency Standard and Poor's said: 'The only factor currently constraining South Australia's rating is concern over the medium-term economic outlook.' He expects noticeable direct and flow-on effects on economic growth and confidence in the state in the wake of the Mitsubishi announcement.
>
> While Standard and Poor's was optimistic about the capacity of SA to 'bounce back' from the Mitsubishi shock, it was waiting 'to see what the full economic ramifications of decision' are before moving to increase the state's credit rating to AAA.

Mr Spoehr concludes:

> SA's strong financial position should fill the state government with the confidence to embark on a substantial infrastructure modernisation program as a centrepiece of the State Strategic Plan. Benefits will be significant: modern infrastructure helps attract and retain investment and people, creates jobs and boosts productivity, improves our health and wellbeing. Such a focus for the State Strategic Plan should be the means to lay foundations for the prosperity of generations to come.

This state has just gone through a decade of fiscal tightening, sale of assets and neglect of infrastructure. There is a strong argument that budget surpluses are the last thing we need right now. Perhaps it is time for the government to be strategic about its objectives for the economy. There are other objectives spelt out in the plan, and I would expect the government to focus on these rather than on this so-called golden goal of the AAA credit rating.

First, I refer to the objective of an equal or better than Australian average youth unemployment rate within five years. Incidentally, I remind honourable members that these are goals and objectives that are spelt out in the plan, but I have picked that one from these and am emphasising it as number one. The list continues: better than Australian average employment growth rate within 10 years; equal or better than Australian average unemployment rate within five years; maintain Adelaide's rating as least costly place to do business in Australia; exceed Australia's average productivity growth within 10 years; treble South Australian export income to $25 billion by 2013; and increase investment in strategic areas.

I say unequivocally that these are admirable targets, though I must say that I am not sure what maths the government is using. If we are going to have an unemployment rate better than the national average within five years, I would suggest that a higher than average employment growth is not going to do us much good if we have to wait for 10 years; we should be looking for that within the five years as well. Nonetheless, I look forward to the state meeting and surpassing these targets. Whether this budget aids in that process remains to be seen. The first assessment of the plan is set for after the next state election. It is probably not the best time to be assessing the performance of the government; the electors of South Australia really deserve to have this report card in hand as they mark their ballot papers on Saturday 18 March 2006.

As an avid cyclist and the patron of Bicycles South Australia, I was looking to see a million-dollar increase in cycling and walking infrastructure. Instead, I find only two trivial mentions of cycling and no commitment to funding, and I put on the record my, and the cycling community of South Australia's, bitter disappointment at that neglect. One matter which should also fit into this context is the pending parklands legislation. There has been widespread discussion amongst interested parties—including, in particular, the Adelaide City Council and the Adelaide Parklands Preservation Association (of which I am president)—in looking at the most effective way to protect the Parklands into perpetuity. It is not an easy challenge to solve; however, no-one disputes that the Parklands do not fund themselves, and there needs to be a source of revenue to not only enhance but also maintain the standard of the Parklands as they currently exist, and many people believe that they are ripe for considerably more money to be spent on their maintenance and enhancement.

Be that as it may, the push from the government for the legislation is that the control will largely be taken away from the Adelaide City Council and passed to some other authority, possibly to be called a trust. The Adelaide City Council currently puts something like $12 million a year into the maintenance of the Parklands. With the energy that the government has been putting into formulating legislation to change this structure so that a trust would have the authority and responsibility for managing the Parklands, I am bemused by what appears to be no contingency or contemplation that there will be further public funds required—not this time from the Adelaide City Council, but from the government.

To conclude, I spoke earlier in rather colourful terms of the herbs and spices in the recipe, and I must confess to a feeling of disappointment with the blandness and lack of flavour in the budget. While the government speaks of vision and planning, we see another tame budget. If we were to describe it in vision terms, it is myopic and short-sighted. In closing, there are small steps forward in this budget but no giant leaps for the state.

The Hon. J.S.L. DAWKINS: In supporting the passage of this bill, I recognise its importance in providing finance to the various programs that are incorporated in the 2004-05 budget. As someone who has a strong commitment to the provision of services and coordination of government assistance to the various regions of the state, I will take this opportunity to focus on the elements of the budget that relate to tourism—one of South Australia's most important industry sectors, especially so outside the metropolitan area. Tourism is of particular interest to me, having spent three and a half years as the inaugural chairman of the Gawler Tourism and Trade Authority and a further year on its board.

Over the last half a century or so, the tourism industry worldwide has become an extraordinary growth industry. From 1950 to 2001 across the international community the number of travellers grew from 25 million to 693 million, and predictions are that this figure will double by 2020. I am sure that every member of this council would agree that South Australia has to be part of that continued growth and the economic opportunities that will accompany it.

I will quote my colleague the Hon. Joan Hall, shadow minister for tourism and member for Morialta in another place:

> The tourism industry is an industry of the future. It already underpins significant economic activity in our state. It provides vast employment. It stimulates growth, not just in the capital cities but importantly right across our very important state regions.

In this very special and unique state, we do not have to build our tourist attractions, because they already exist in quantity and great quality. They are widely varying and are innovatively marketed by local operators across South Australia. It is easy to think of many examples of these attractions: of course, there is Kangaroo Island, Coober Pedy and many other areas of the Outback that are especially attractive to ecotourism ventures, or what some also call nature-based tourism ventures.

The minister at the table served on an ERD committee with me that looked at the enormous potential that exists in ecotourism in this state. Also, we have many people who come to this state to watch the whales, whether on the South Coast or in the Great Australian Bight. Of course, there are also the sea lions at Baird Bay and the amazing attractions at Port Lincoln. That makes me think about South Australia's great advantage in having a very long coastline along Eyre Peninsula, Yorke Peninsula and the Limestone Coast which does not have hordes of people or masses of neon lights, and that is a great attraction for many people. Our long river frontage is in a similar vein, and we have the wide-ranging wine regions and much more.

At this stage I will run through some of the components of the tourism budget for 2004-05. Tourism has taken its third successive cut in this budget. The South Australian Tourism Commission is budgeted to receive $41.1 million in 2004-05, which is a cut of approximately $4 million from the estimated result in 2003-04. Indeed, the SATC received $53 million in 2001-02, the last budget of the previous government.

The components of the tourism budget are as follows. In the area of strategic advice there has been a decrease in grants and subsidies from $319 000 in 2003-04 to $164 000 in the current budget. Tourism development overall has had a cut of $3 million. Grants and subsidies are down by over $2 million in this budget, and the hardest hit area is the

tourism infrastructure development fund. Only $1.8 million has been allocated for this budget, while $4.6 million was spent in the last financial year. The Outback tourism development fund will not continue; and the major tourism infrastructure fund has been allocated $3 million over three years, but that funding will not begin until 2005-06. In relation to tourism events, the Outback Cattle Drive has received no commitment from the government beyond 2006; the bid for the World Chess Olympiad has been withdrawn; and, while the International Horse Trials will continue to receive sponsorship, the management of those trials will be done by community organisations.

In the area of tourism marketing, there has been an overall cut of $2 million from last year's expenditure. Grants and subsidies have been cut from $5 million to $2.8 million. There have been no increases in the domestic marketing budget despite a target to launch a new marketing campaign and to increase visitors by 30 000. Indeed, international marketing spending is down by almost $2 million.

Finally, marine ecotourism will receive support through the Marine Innovation SA initiative. However, the bulk of that spending will not occur until 2006-07, and that will be $4.1 million, and in 2007-08 it will be $8 million when commonwealth and industry contributions will amount to $1.8 million and $3.4 million respectively.

Having analysed the tourism budget, I will take a little more time to make some further comments about this important sector. The international tourist numbers in this state are alarming. In 2001 we had 359 000 overseas visitors to South Australia, and that has dropped to 296 700. The tourism industry in this state is full of hard-working, innovative people in small and large businesses who have set an extraordinary example. The work of these individuals and the sector as a whole generates more than $3.4 billion for our economy. The industry employs more than 37 000 people and accounts for about 10 per cent of the state's growth.

The tourism graph lines are currently on the slide in this state. However, the indifference shown by the government is extremely frustrating to the industry. It is getting the wrong messages from this budget. Overall, there has been a cut in funding for the tourism portfolio of nearly $5 million over last year's estimated result. However, the most short-sighted aspect is that the programs of strategic advice, tourism development, tourism events and tourism marketing have all been cut. The South Australian tourism index indicates tough times ahead. The industry is acutely aware of the danger signs, and operators large and small are very concerned. They are talking about the need for a recovery program as a matter of urgency in the face of the collapse of the numbers of international visitors, the backpacker crash and a government that is turning its back on major events.

The industry is not trying to paint an unrealistic picture but it is raising current and relevant issues. This industry consists of a range of very professional, successful operations and the operators will not lie down in the face of the threats to their industry, and nor should they. However, they insist that the first priority must be to acknowledge that there is a problem and then to acknowledge the urgency of the situation. This government must learn to do both. I appreciate the opportunity that this debate has afforded me to note the funds appropriated in the budget to tourism. I support the second reading of the bill.

The Hon. T.J. STEPHENS: I rise to speak to the government's appropriations for the next 12 months and beyond, and concur in the points raised by a number of colleagues on this side of the chamber. It is not my intention to repeat a number of the issues that my colleagues have brought up, so I will touch on the points that are pretty close to me. I intend briefly to discuss a number of issues, particularly the effect of taxes, the state of the economy, the distinct lack of road funding and the ever-present political spin that this government soaks all its actions in.

I begin with taxes, because this is the government instrument that usually has the most immediate and harmful effect on the working public. This government has done more than most to inflict as many useless taxes and tax increases as possible on the people of South Australia. The commonwealth grants commission has stated that not only is the Rann government the highest taxing government in South Australia's history, it is also the highest taxing state government in Australia. That is quite a badge of honour amongst the socialists in the ALP, I am sure. Apart from the fact that pensioners and the regions get nothing from the budget, as has been standard practice since coming to office, this government will also collect an extra $587 million in the next 12 months in taxes. This comes primarily on the back of the boom in property taxes. In fact, the government received an extra 30 per cent over what it had budgeted for. This is an extraordinary amount of miscalculation and it could somehow explain how the State Bank diaster occurred under the previous Labor government.

It also allows for a fair bit of guesswork on the expenditure side. As we have seen in various departments, blow-outs do not matter so much when you are punting on the revenue being wrong by nearly a third. When the boom ceases and the revenue is down by a third and not up by a third, I wonder how the Treasurer's economic credentials will look then.

This government has claimed that it has done the right thing and cut payroll taxes but, because it fiddled with the rate rather than the threshold, payroll taxes will increase by $8 million over the next financial year. Another one of those minor miscalculations. The Treasurer claims that he has cut taxes. He puffs out his chest and says that he will give back $360 million to the people. For starters, apart from this alleged cut being slightly more than half the tax increase he will get, the Treasurer has spread it out over four years, so we are only getting back a tiny fraction of what we will pay each year. The tax cut will be overtaken by inflation more than once. The icing on the cake, however, is that half the tax cut, that is, $180 million, comes from the GST agreement that the previous Liberal government signed in 2000. I would like to congratulate the Hon. Rob Lucas for engineering a tax cut from opposition. Not many treasurers can manage that.

I also reiterate that a budget surplus does not equal economic growth on its own. Economic growth relies on a combination of fiscal discipline, prudent spending and targeted effective tax cuts. This government appears to think that by increasing taxes you increase growth. That is not true. The government's own employment forecasts show that this expected growth in jobs in South Australia is only half that of its nearest competitor, the ACT. The other states and territories vary between 1.5 per cent in Victoria and the ACT to 2.9 per cent in the Northern Territory. South Australia barely manages to get to 0.75 per cent. That is all before the government introduces the Fair Work Bill, which I doubt it has factored into its modelling. If the Fair Work Bill does for unemployment what Kevin Foley has done for taxation then South Australia is in real trouble.

The effect of all that is that the other areas of budget suffer—road funding, what many in regional areas consider to be an essential service, especially. This government has cut funding again. It falls from $5 million last financial year to $3.5 million. The member for Reynell claimed that some people prefer to drive on unsealed rough roads, and some might even consider them to be a tourist attraction. I wonder how attractive they are to the dozens of road accident victims and their families.

As usual, this government has launched a massive advertising campaign to sell the benefits of its budget. Some people have put a figure of $90 000 on its advertisements for this campaign. For some reason the government feels the need to advise people that there are more beds in hospital, allegedly, as if people will change their mind about going to hospital when they have a serious illness. It is blatant political advertising. This government again fails the scratch test, It looks fine on the surface, but scratch it and you will find there is nothing underneath. I suggest that this government would be better advised to spend this money on some real problems and real solutions rather than try to paper over some serious faults in its budget. I support the second reading.

The Hon. R.D. LAWSON: I rise to speak in support of this bill and make a few remarks about the government's performance in relation to two particular areas, namely, the justice portfolio and the Aboriginal affairs portfolio. Whilst there are some initiatives that are to be welcomed, and I pay tribute where tribute is due for those few initiatives that the government has taken in these areas, they are too few. Moreover, they are outweighed by other considerations, which are negative.

In the area of justice, let me first address the law and order strategy of this government. It is a strategy that is based wholly on public relations, on spin and on rhetoric. Take the issue of drugs. Any legitimate strategy to address law and order issues would have to address seriously the question of drugs in our community. Any law and order policy that does not address that issue simply cannot be regarded as a serious attempt to address the issue.

The utterances of the Premier and his Attorney-General on law and order generally fall silent on the subject of drugs. The truth of it is that early in the term of this government the Premier, amid much fanfare, established a drug summit. I do not for a moment criticise the establishment of that summit; it was a worthwhile exercise. The trouble is that the government failed to implement or follow-up on the recommendations of that summit. The only significant investment as a result of that summit was not itself a significant amount monetarily, but it was a methadone program in prisons. In other words, it was a maintenance program. It was a treading water program, not one which seriously addressed the widespread use of drugs in our community, their corrupting effect and the cost to the community in terms of crime, imprisonment, antisocial behaviour, family breakdown, violence and the rest—all of which are attributed to drugs and which were simply not addressed.

But, worse than that, in its first term this government abandoned the therapeutic drug unit that had been established at Cadell. In relation to drug programs in prisons, we saw merely a slight shuffling of the deckchairs. Notwithstanding the minister's assurances about its activities to prevent drugs entering our correctional institutions, it is clear from all the information and figures that that strategy is not having much effect. Also bear in mind that this government, rather than addressing some of the serious issues in our correctional institutions, abandoned things like Operation Challenge and severed the significant research links with the university in relation to the provision of psychological services in our prisons.

This government's law and order strategy has been focused on rhetoric: find a few scapegoats and attack them. Who are the scapegoats? There was a great deal of rhetoric, for example, about what the government was going to do about bikies, but there were very few arrests and not much in the way of a safer community. The so-called outlaw bikie gangs have not been outlawed; they are continuing their activities. Their building projects under various guises are going ahead. Attacking defence lawyers is another popular strategy, blaming lawyers for what are perceived to be light sentences, appeals and the like. The government undermines the office of the DPP. Rather than directly addressing the deficiencies of the occupant of the office and using the powers that the government had through the legislation, the ground was cut from under that important office. It was not specifically in relation to one particular case but, generally, it was about forcing the resignation of Mr Rofe and then gloating publicly, because certain sections of the community were pleased to see the back of the DPP.

The government grandstands in selected parole cases, and in certain cases it is highly selective in refusing to accept the recommendations of the Parole Board, then seeking to milk publicity from those cases. It focuses on political spin rather than substance, such as the so-called abolition of the drunk's defence and creating so-called additional rights to self defence, whereas, in fact, the additional rights are illusory. Attacking the judiciary is the latest one. As result of the court's failure a few days ago to accept the government's arguments in R v Paine, the government has chosen to say, through the Attorney-General, that these judges do not understand the legislation, and that as result of their obtuseness they will have some form of mandatory sentencing forced on them. That is another scapegoat attack: find a scapegoat and attack, and preferably a scapegoat like the judiciary, who are disinclined to respond publicly.

Where in the context of the budget are the investments that one might expect of a government that was truly committed to enhancing community safety through law and order issues? Where are the investments? What do we see? Everywhere we see delays and a failure to deliver additional services. Obviously, our correctional institutions require investment. The government acknowledges that, but its commitment to those investments is perfunctory. An additional 50 beds have been provided at Mobilong Prison, but that program has been delayed. There have been delays at the Adelaide's Women's Prison. This is a facility that, only a couple of years ago, was condemned as totally unsatisfactory. The government acknowledged the fact and said it was going to investigate a public/private partnership to redevelop that facility. The redevelopment, as the government said, was well overdue. What do we find in this year's budget? The statement in the capital investment paper is that, due to difficulties in locating adequate sites for this facility, the government has decided to defer the procurement of the women's prison.

A similar excuse is given in relation to the youth detention centre, that is, to replace the facility at Magill, which, as anyone who has visited it realises, should have been replaced 30 years ago. The need for its replacement is acknowledged by the government, yet what do we see in this budget? Investment in the process? No. It has been deferred on the

ground that it cannot locate an appropriate site. That is piffle. If the government were truly committed to investment in this area, the sites would be found and the investments made.

It is interesting to note that so many of these projects are deferred in this budget. The government was able to find $111 million out of nowhere to invest in its car fleet, that is, the 5 000 or 6 000 vehicles it owns. As a result of a change in the financing arrangements, the government has decided to spend $111 million in this year, yet the possible new women's prison has been deferred in the budget—pushed out. The youth detention facility has been deferred—pushed out. We see a similar deferral in relation to the Port Augusta courthouse redevelopment, where not only has the cost of the project blown out but it has been pushed over the horizon to an expenditure of some $8 million in 2006-07, with statements such as the following:

> This contemporary court facility will make clear statements about the accessibility, accountability and transparency of the judicial process.

How can you be accessible, accountable and transparent if you push these programs over the horizon, with the court staff and those involved in the justice system in Port Augusta having to put up with substandard facilities for more years? This government is failing to make necessary investments to match its rhetoric. The substance does not match the spin in relation to law and order.

Regrettably, similar comments can be made in relation to Aboriginal affairs. In last year's budget, the government allocated additional funds to Aboriginal services, much of which were to go to the Anangu Pitjantjatjara lands to meet various strategies addressing issues there. However, those services simply were not delivered. It is fair to say that the department and this minister must bear heavy responsibility for the failure of those programs to be delivered to the people on the lands. That view is clearly shared by the Premier, who has taken significant service delivery obligations for people on the lands into his own department. For example, in this year's budget $1.5 million is allocated to the Department of the Premier and Cabinet; $2 million in the next year; and $3 million recurrent from 2006-07 into the future. This initiative is described as follows:

> . . . to improve services in response to the major problems being experienced in communities within the lands. The new money will be spent on a range of services, including additional policing, respite care, mental health workers, training, substance abuse programs, health and nutrition programs and child protection.

So, it is not only the Minister for Aboriginal Affairs and Reconciliation who stands condemned by the fact that the central agency of government, through the Premier and Cabinet, is now seeing as part of its role the provision of these services, which ought be addressed by the Minister for Police, the Minister for Health and the Minister for Aboriginal Affairs and Reconciliation. Whilst I commend the Premier for taking some leadership in this area, it is a matter of regret that he has to step in where other ministers have failed.

We see other budget allocations in relation to the Anangu Pitjantjatjara lands. For example, the Department of Further Education, Employment, Science and Technology will allocate additional funding for employee housing (about $280 000 recurrent) to increase staffing, particularly TAFE staffing, from three to 12 positions. We welcome that, but the fact is that the true housing problem on the lands relates to those who live on the lands—not housing for European employees, but better housing for indigenous people. Sadly, there is little in the budget that will provide any hope of significant improvement being made in relation to indigenous housing on the lands—and, undoubtedly, there is a need for better housing for people on the lands.

Some of the initiatives in relation to Aboriginal affairs—programs such as additional magistrates visiting the lands (which is to be welcomed)—come under the justice portfolio. Again, the government has not put into place funds to implement the blueprint the Coroner laid down in his petrol sniffing inquest in September 2002.

So far as I can see, there is not a commitment to establish the rehabilitation facility on the lands which was recommended not only by the Coroner but also by everyone who has looked at this issue. It is a facility which is being demanded by people on the lands yet, notwithstanding rhetoric of support and expressions that it is a good idea, that we will consult and form another working party, committee and investigation and that we will appoint Bob Collins and establish all these committees, little in the way of improvement is being seen on the lands. I believe that, in relation to those two particular areas of Aboriginal affairs and the law and order strategies, this budget is simply deficient. It is a catalogue of rhetoric, announcements and spin but little true improvement is being effected.

We can see that in this government's strategies in relation to the appointment of Bob Collins. We welcomed the appointment of Mr Collins, because something had to be done, and clearly things had not been happening on the lands. But how does the government treat it? It treats it as an opportunity for a press conference in Adelaide. The TV cameras were there with the Premier, Bob Collins and the minister. Not an Aboriginal face in sight, I might say, in relation to that appointment, but it was good publicity for metropolitan Adelaide. Then the Premier, along with Mr Collins and the minister, went north. It was another photo opportunity on the lands, but we had reports (as were tabled in this parliament) of what happened on the lands: Bob Collins was nowhere to be seen, because he was at the craft shop buying a beanie and the Premier was too preoccupied with the cameras to attend the delegation who wanted to meet him. No wonder the people on the lands were yet again disappointed by the response of a government which, as that example clearly illustrated, is more interested in headlines than improving services on the lands.

I welcome the fact that as a parliament we have established the Aboriginal Lands Parliamentary Standing Committee, which I believe is working well. I commend the minister for the diligence with which he attends and shows interest in the work of that committee through his chairmanship of it, but that committee has really a very limited mandate. It is not an excuse for failure to deliver services on the lands and to see real improvement in the health, educational standing and employment opportunities of people on the lands. I think one of the most telling things in this budget on Aboriginal affairs were the targets set for the various programs. As members will know, we no longer simply have monetary targets set out in the budget but, rather, we have program targets to illustrate that improvements are being made. The economic opportunities for Aboriginal people were the subject of a program and a target that had existed for some time, and that target was simply abandoned as one of the things the government proposes to achieve.

The number of Aboriginal heritage sites to be identified was said to be some 400, but nothing like that was achieved. What we find is rhetoric, lofty targets, objectives, mission

statements and the like, yet, when it comes to actual deliveries, there is a complete failure to provide real benefits. It is unnecessary perhaps to take the council to the programs which I cannot find at the moment, but it is undoubtedly true, and I ask the council to accept my assurance that the targets set by this government have simply not been delivered. Once again, opportunities are missed. I commend the second reading.

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

STATUTES AMENDMENT (MISCELLANEOUS SUPERANNUATION MEASURES) BILL

Adjourned debate on second reading.

(Continued from 30 June. Page 1885.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of the Liberal Party to support the second reading. In summary, it makes three changes, all of which are supported by the Liberal Party. The first issue seeks to give members of the state's lump-sum schemes the same options as members of the state pension, parliamentary and police pension schemes. Specifically, it means that members will have the option to have part of their retirement benefit in the scheme and use it to extinguish the surcharge liability. This means that the surcharge debt will be paid from a pre-tax benefit in the same way as members of private sector schemes can discharge their surcharge debt. In summary, it will mean that an existing advantage or benefit for participants in schemes like the state pension, parliamentary and police pension schemes will also be made available to members of the state's lump-sum schemes. That seems, to the opposition, to be a sensible reform and the Liberal Party is prepared to support that reform.

The second issue introduces member investment choice as an option for the employee component of the benefit but not for the employer component of the benefit, as this is a defined benefit in the state lump-sum scheme. Again, we are advised that this change will bring these schemes into line with the existing Triple S scheme, and members will now be able to move to a more conservative investment strategy as they approach retirement in order to protect their accrued benefits in times of volatility with low to negative returns.

Advice provided to the opposition was that, particularly in recent years—although certainly not the last year, where investment returns returned to almost boom times in some areas, but in the two previous financial years—members were confronted with low to negative returns on their investments, and a number of people were expressing some concern about that. Particularly if you are a member nearing retirement and you can see that in the next two years you will want to adopt a more conservative approach to your superannuation, then this benefit may attract you as a member. The government's advisers have indicated that that certainly has been the case and that some members have indicated a willingness or desire to be able to move down this path. Again, the opposition is prepared to support this.

The third issue seeks to address an anomaly where persons aged between 60 and 65 who are in receipt of weekly payments of workers compensation and who are also members of the state pension or police pension schemes are able to receive a superannuation pension without restriction. In this case, a person could receive a weekly income representing more than 150 per cent of their employment salary. We have been advised that public sector unions, the Superannuation Federation and others support the bill but the unions, in particular, have acknowledged that this issue is one which should not be the intent of the legislation, and they are quite happy to see that loophole closed through the passage of the legislation. We are advised that all public sector unions and the Superannuation Federation support the bill, as does the opposition. We understand that the government will be moving some amendments, and we have had some written advice from the Treasurer's office in relation to those. At this stage, on our understanding of the amendments, we flag our support for them.

I did receive some correspondence from a constituent who follows these issues closely—and I am sure that the government's advisers are aware of this person. Wearing another hat, he represents an organisation with an interest in these issues, but on this occasion he wrote as an individual. I understand that he also wrote to the Attorney-General, who referred it on to the Treasurer for response, and I would be interested in the reply to the constituent's question, if the minister handling the bill would put it on the public record. The constituent asked what factors and/or methods would be applied to the withheld amount, or portion thereof, to create the pension in the first place, and so was suggesting that more detail be provided in the legislation in relation to the factors and methods that would be applied. I have seen a general indication of the Treasurer's response to that, but I would be interested in having the government's response to that question placed on record. With that, I indicate opposition support for the bill.

The Hon. IAN GILFILLAN: I indicate Democrat support for the second reading. The bill seeks to amend the Police Superannuation Act 1990, the Southern State Superannuation Act 1994 and the Superannuation Act 1988. These pieces of legislation relate to the superannuation schemes for police officers, public servants, teachers and other government employees. The bill deals with three matters. These involve the payment of the superannuation surcharge, member investment choice and the interaction between pension payments and workers compensation payments. The first set of amendments will allow members of a lump-sum scheme to pay the superannuation surcharge out of their superannuation benefit. The second matter also deals with members of state lump-sum schemes and will bring them into line with members of the Triple S scheme by allowing a degree of investment choice.

The third seeks to address a situation where a person aged between 60 and 65 years can currently access both workers' compensation payments and a superannuation pension. It has been the practice in the past that workers' compensation payments would cease at age 60 years. This, however, has been brought into doubt by a recent decision of the Workers Compensation Tribunal that workers' compensation payments were payable to a former police officer until the age of 65 years. The bill seeks to address this through the adjustment of pension payments. I note that the relevant unions, as well as the superannuation federation, have indicated support for these measures, as do the Democrats.

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

PROFESSIONAL STANDARDS BILL

Adjourned debate on second reading.

(Continued from 30 June. Page 1889.)

The Hon. R.D. LAWSON: I rise to indicate Liberal opposition support for the passage of this bill. The Professional Standards Bill is part of the government's response to the so-called insurance crisis. In the second reading explanation the bill is described as the third stage of the government's legislative response to that crisis. We support professional standards legislation and point to the fact that, as early as 1994, New South Wales introduced a professional standards act. Under that legislation (and the current bill before this parliament is based upon that legislation), it is possible for a professional association to register a scheme under which standards of entry to the profession, control of professional conduct and an obligation to obtain adequate insurance cover are established in exchange for a statutory cap on the amount that can be recovered from members of the association.

The original idea was promoted by the accounting profession, which sought to limit individual liability for damages in respect of audit work. However, the act did allow other approved professional associations to participate and, in New South Wales, a number of professions and occupations have secured protection under that legislation, namely, accountants, solicitors, surveyors, valuers and some engineers. Similar legislation was passed in the state of Western Australia but no schemes, as I understand it, were in fact established in that state, notwithstanding the existence of the statutory framework.

One of the impediments to state legislation of this kind was the fact that it could not protect participants from claims under commonwealth laws. Although a professional person could limit common law claims for negligence under the New South Wales model, he or she could not limit claims for misleading and deceptive conduct under the federal Trade Practices Act or for failure to comply with the Corporations Law or the ASIC Act. That was an important weakness in state legislation and it would have been a significant weakness in the national scheme which was subsequently proposed in response to the insurance crisis. However, I am glad to see that, after this bill was introduced in this place, and as recently as 21 June this year, federal parliament passed the Treasury Legislation Amendment (Professional Standards) Bill 2003 which provides the necessary commonwealth legislative backing and amendments to the Trade Practices Act, the Corporations Law and the ASIC Act to permit caps on liability.

I turn to the scheme created by this bill, which is based on the New South Wales act. The bill will establish a professional standards council. Its function will be to register schemes for occupational or trade groups. It is not limited, as was earlier legislation, to professions in the strict sense. A registered scheme can apply to everyone in that occupation or to particular classes of practitioners. A scheme will have a life of up to five years and it will cap the professional liability of practitioners who are covered to a figure not less than the minimum cap, which is fixed at $500 000. In return for the benefit of protection from liability over the cap, the scheme must require practitioners to maintain insurance cover or business assets equivalent to the cap and, depending upon the particular scheme, to follow prescribed risk management procedures, undertake continuing professional education, participate in a complaint handling system, be subject to a rigid code of professional discipline and take other steps required by the scheme to improve professional standards and protect consumers.

Speaking from my own experience as a legal practitioner, I can indicate to the council that, when the Law Society of South Australia established a common professional indemnity scheme and obtained underwriting for that scheme, there were put in place certain mechanisms about claims handling and also about the practicising procedures of solicitors. For example, the greatest area of professional negligence against legal practitioners at the time of the introduction of the scheme was the failure of the practitioner to institute proceedings within a time limit specified in some act of parliament, with the consequence that the client's right to pursue an action was lost. That action of the client against the wrongdoer was transferred to the action against the solicitor.

What the scheme insisted upon was that practitioners undergo training, maintain diaries to ensure that the final date for instituting procedures was appropriately recorded, and that there were mechanisms in place to ensure that the solicitor met that particular professional obligation. As a result of those measures, the number of claims in that area were significantly reduced. That had the effect, of course, of ensuring that insurance was available and that the cost of insurance was kept to minimum levels. The scheme has worked well, not only for the benefit of the legal profession but more particularly for the benefit of the clients of lawyers.

Leaving that aside for a moment and returning to the scheme of this bill, the bill provides that after the professional standards council approves a particular scheme for a particular group (because obviously there will be different rules in relation to different groups), it must be submitted to the minister for final approval, and when approved by the minister the scheme is tabled in both houses as a disallowable instrument. We will be proposing an amendment that the scheme does not actually come into effect until after the time for disallowance has passed. Similar measures were introduced in other bills relating to the insurance crisis, in particular the recreational services bill, which provides for the establishment of codes of conduct or codes of practice.

We believe with schemes of this kind it would be inappropriate to have the scheme start, the instrument tabled and then subsequently be disallowed. It would be productive of mischief, it would be productive of uncertainty and, in effect, parliament's capacity to intervene in a scheme in which it considered has undesirable elements would be neutered. Accordingly, I will be moving amendments during the committee stage to amend the provision relating to the approval of the scheme to ensure that the schemes do not come into operation until after parliament has had an opportunity to scrutinise and, where appropriate—probably unlikely—to disallow a scheme.

It should be noted that this bill—and this is an important rider—does not apply to damages for personal injury. It relates to professional indemnity insurance for professions like accounting and law where the negligent performance of duty is more likely to result in economic hardship rather than physical injury. Engineers and architects can be covered but only against claims for such things as remedial work but not against claims for those who might be physically injured by the collapse of a negligently designed bridge or building. It follows that this measure, the Professional Standards Bill, will not be of any assistance to the medical profession

because claims for medical negligence invariably arise out of physical injury to a patient.

It should be noted that the legal and accounting professions are supportive of this bill. It was originally suggested that all governments around Australia were in the process of introducing comparable measures. However, reports in the press indicate that there is not unanimity of view, especially in Victoria. There have been reports in the Australian *Financial Review* of what is termed a Victorian breakout where the Victorian government was at that stage proposing to exempt breaches of fiduciary duty from the cap. In other words, solicitors would be exposed to unlimited damages for breach of fiduciary duties. This would mean that they would have to carry insurance for significant amounts because they are liable for fiduciary duty by dishonest partners and employees. Accordingly, I would ask that the minister indicate in his second reading response exactly what is happening in relation to Victoria because, as was reported by Mr Bob Gotterson QC, President of the Law Council of Australia, consistency across the whole of Australia would be important to achieving a workable network of professional standards.

More recent press reports have indicated that there is yet another hurdle to the effective implementation of professional standards legislation, and that is the fact as is reported, in particular in the Australian *Financial Review* of 30 June, that a number of large companies are suggesting that they will not engage lawyers and accountants who have a capped liability and, of course, the effect of that would mean that Australian firms might lose business offshore.

It is an interesting irony that, when the bill was being debated in federal parliament, the Australian Labor Party was foreshadowing amendments to enable the law to accommodate the banks and the big insurance companies in this particular area against the professions. In the end, the Labor Party did not move those amendments; they certainly did not go to a vote, and they were not adopted. It appears that the situation is rather fluid, especially in Victoria, and, as I say, I would be obliged if the minister would indicate, in his response, the current state of play in Victoria. I look forward to the committee stage of the debate.

The Hon. IAN GILFILLAN: I indicate, with some reluctance, Democrat support for the second reading. There is a rather interesting article published in the May edition of the *Plaintiff*, the Journal of the Australian Plaintiff Lawyers' Association, quoting Alan Jones, a well-known guru for high-quality ethics throughout Australia. He goes into some detail analysing the situation with high payouts and problems with insurance. I think it reflects on the legislation before us today. I will read a couple of paragraphs, because I think it is a good introductory contribution to a few other comments that I will make. Alan Jones is bemoaning, to an extent, the extraordinarily high premiums involved with doctors. He states;

> Now, these are people who have completed doctors' competitive six-year university courses, a compulsory two-year residency program, and what's now another six years' postgraduate training. Surgical endeavours, we know, have developed enormously. And the patient's expectations in terms of outcomes are often unrealistically optimistic. Here the architects of reform are on stronger ground. One surgeon I spoke to began practice 30 years ago. Back in the seventies, he paid $100 per annum in insurance premiums, without government intervention. This year he is paying $80 000. Does this reflect a manifestation of greatly increased negligence by his profession, or does it reflect a gross distortion in the legal interpretation and implementation of tort law?
>
> These problems are not going to be solved by governments fed by ingratiating bureaucrats trying to pretend that they've got immediate solutions. We first have to determine whether the problem is one of ambulance-chasing lawyers and brain-dead judges. Or is it greedy and alarmist insurance companies that have never had it so good and have never been investigated? Perhaps the real answer lies with the judge who recently retired from the Queensland Court of Appeal, Justice James Thomas. He said, 'Common sense had gone from the legal system when it comes to cases of negligence. 'Some judges had enjoyed playing Santa Claus, forgetting that someone has to pay for our generosity. 'We've allowed the tests for negligence to degenerate to such trivial level that people can be sued for ordinary human activity. When I say we, I mean all levels of adjudication, right up to the High Court.'

It is a very interesting article and a lot more expansive than what I have quoted. I am pleased to quote it because I think it adds some balance. Certainly, the retired judge indicated that he felt that some overgenerous and unrealistic compensation payments had been awarded. But he also made the comment by way of rhetorical question, and it is underlined in my copy so that I have reason to quote it again, as follows:

> Or is it greedy and alarmist insurance companies that have never had it so good and have never been investigated?

If you look at the results of the insurance companies—to which I will refer a little later—it is pretty hard to discount that rhetorical question out of hand. So, when we are introducing measures that will, in effect, put an upper ceiling on payouts, we really do need to analyse why we are doing it, and what the end result will be. I would feel a lot more comfortable if we had a rolled gold, rock solid guarantee that by capping payments the premiums would have commensurate reductions and be guaranteed to remain under some form of stipulated levels.

In indicating support for the Professional Standards Bill 2003, I must convey my ongoing dismay that the governments of Australia have gone down this path. As I indicated earlier, I do not believe that the so-called insurance crisis was anything other than a capital strike organised within the industry to generate enhanced profits. It is of no surprise that the general media follows this theme because it suits their purposes in two ways. First, commercial radio, television and printed news exists for a single purpose—to generate advertising revenue for their owners. Naturally, running stories that suit the purposes of their major advertisers would tend to improve relationships with those advertisers. I doubt that anyone in this or the other place would disagree that the insurance industry is a major advertiser. It is difficult, or perhaps even impossible, to see a commercial publication of any kind that does not carry insurance ads.

Secondly, the media have classes of stories that they like to run, as the stories bolster circulation, or increase the size of their audiences. Sensationalist stories of enormous payouts are guaranteed to generate prurient interests, especially from those who are quick to envy someone else. The lack of compassion shown by the media where a person achieves a sizeable compensation payout as a result of a severely disabling injury beggars belief. Relief from crippling medical bills is in no way morally comparable to winning a lottery, and yet that is the way these relatively rare cases are portrayed; all this so that the insurance industry can make higher profits.

I indicate that, after 9/11 and the shocks of various other very heavy imposts on the insurance industry, there was good reason to look at the viability and the long-term stability of the insurance industry. We have gone through a lot of that preliminary analysis and assessment. For a relatively current

appraisal of the insurance industry, I will refer to *The Australian* of 29 August 2003, as follows:

> Promina's announcement of a net profit of $135 million for the six months—

I emphasise 'six months'—

> to June 30 sets the insurer on course for earnings close to $100 million more than the prospectus forecast of $188 million for its float just three months ago.

The Hon. T.G. Roberts: But they will get that back in lower premiums.

The Hon. IAN GILFILLAN: Well, we will see. It is 12 months on, and we will check that out. The interjection was that it will be reflected in the lower premium—and pigs are airborne! The article continues:

> Last week QBE announced a more than doubling of profit to $241 million, again for just six months. . . IAG unveiled a huge turnaround performance to achieve $153 million profit for its full year to June 30.
>
> QBE disguised the full level of its profits by socking away no less than $400 million to reserves.

They must have reserves, and no one-doubts that. This is not a savage, unthinking attack on the insurance industry on our part but, if it is squealing hurt, let us see the evidence of that hurt. The article also states that 'IAG squirreled away $300 million' into reserves. So, we see the extent of the insurance crisis. The real crisis will be when these Scrooge McDucks need to buy new money bins in which to keep the cash reserves.

With all the fluff and hysteria generated by the media and their commercial partners, I cannot blame professionals who feel that their lives and livelihoods are under threat. We have tamely sat back and watched insurance companies jack up the policy prices, and I have nothing but sympathy for the professionals who are squeezed as a result. It is for this reason—and this reason alone—that the Democrats support this bill. It allows professionals to cap liability for all claims, except injury, to a mandatory level, which is at present $500 000. Professionals who are part of these schemes through their professional bodies are required to advertise this on all their documentation, with the exception of their business cards. I suspect that history will not be kind to us for falling for the insurance industry's propaganda, but I see no point in taking away a measure of protection for professionals who have been caught up in the resultant chaos.

I assume that the council gets the message that I do not believe that we are being told the full story by the insurance industry. I believe that professionals in the categories covered by this bill are being severely hit by quite extraordinarily painful premiums, which they then have to pass on to the general public. On balance, I think it appropriate that we support this measure, but, as I said at the outset, we do so reluctantly.

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

STATUTES AMENDMENT (MISCELLANEOUS SUPERANNUATION MEASURES) BILL

Adjourned debate on second reading (resumed on motion)

(Continued from page 2063.)

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank honourable members, the Leader of the Opposition and the Hon. Ian Gilfillan for their indication of support for this bill. The Leader of the Opposition asked a question, and I would like to respond. Whilst the factors for a conversion of a withheld lump sum to a pension have not been determined by the Treasurer as yet, the factors will need to be the same as the commutation factors to apply for the notional pension created in order to ensure that this process ensures that the lump sum converted to a pension will equal the lump sum to result from commutation of the notional pension.

In other words, the member will neither win nor lose from running the withheld lump sum through this process to ensure that the lump sum is treated as an eligible termination payment under the commonwealth's Income Tax Assessment Act. I trust that answers the leader's question. If there are any others, we can deal with those, if necessary, in committee. I thank members for their indication of support.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I thank the minister for the answer he gave at the second reading. Can I clarify whether the amendments the government will move are in any way related to the correspondence the government received from the constituent to whom I referred in the second reading, or are those amendments a completely unrelated issue?

The Hon. P. HOLLOWAY: My advice is that the government took into consideration the matters raised by the leader's constituent. As a result, it was decided that the legislation could be made clearer, and that was the course of action taken.

The Hon. R.I. LUCAS: I thank the minister for that indication. Has there been any discussion between the government's advisers and this constituent? If so, is the constituent at least partly happy with the government's partial response to the concerns that were expressed?

The Hon. P. HOLLOWAY: My advice is that we have not had any communication from that person subsequent to the introduction of this bill.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. P. HOLLOWAY: I move:

> Page 5, Lines 1 to 3—
> Delete these lines and substitute:
> (5) The factors to be applied in—
> (a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and
> (b) the commutation of a pension,
> will be determined by the Treasurer on the recommendation of an actuary.

As I have indicated in answer to a question from the Leader of the Opposition, the purpose of this amendment is to make the legislation clearer in relation to the factors to be applied.

The Hon. R.I. LUCAS: The opposition supports the amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

> Page 6, lines 37 to 39—
> Delete these lines and substitute:
> (7) The factors to be applied in—
> (a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and
> (b) the commutation of a pension,
> will be determined by the Treasurer on the recommendation of an actuary.

This amendment is similar to the one that I have just moved. This applies to people who have died, whereas the amendment we moved to subclause (5) related to those who have not.

The Hon. R.I. LUCAS: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 6 to 9 passed.

Clause 10.

The Hon. P. HOLLOWAY: I move:

Page 10, after line 23—
Insert:
(4a) Section 40(1)(f)—delete 'paragraph (e)' and substitute: paragraphs (d)(ii)

This amendment corrects a technical drafting error.

The Hon. R.I. LUCAS: The opposition supports the amendment.

Amendment carried: clause as amended passed.

Clauses 11 to 13 passed.

Clause 14.

The Hon. P. HOLLOWAY: I move:

Page 13, lines 9 to 11—
Delete these lines and substitute:
(5) The factors to be applied in—
(a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and
(b) the commutation of a pension,
will be determined by the Treasurer on the recommendation of an actuary.

Again this amendment will clarify that the factors for the conversion to a pension will be determined by the Treasurer.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 15, lines 6 to 8—
Delete these lines and substitute:
(7) The factors to be applied in—
(a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and
(b) the commutation of a pension,
will be determined by the Treasurer on the recommendation of an actuary.

This amendment has a similar effect to the one we have just passed only this applies to people who have died.

Amendment carried; clause as amended passed.

Clauses 15 to 17 passed.

Clause 18.

The Hon. P. HOLLOWAY: I move:

Page 18, lines 11 to 13—
Delete these lines and substitute:
(5) The factors to be applied in—
(a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and
(b) the commutation of a pension,
will be determined by the Treasurer on the recommendation of an actuary.

As with a number of other amendments we have passed today, this clarifies the fact that the Treasurer determines the factors to be applied.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 20, lines 6 to 8—
Delete these lines and substitute:
(7) The factors to be applied in—
(a) the conversion of a withheld amount (or part of withheld amount) into a pension; and
(b) the commutation of a pension,
will be determined by the Treasurer on the recommendation of an actuary.

This amendment again clarifies that it is the Treasurer who determines the factors to be applied only in this case it is in the case of people who are deceased.

Amendment carried; clause as amended passed.

Clause 19 passed.

Clause 20.

The Hon. P. HOLLOWAY: I move:

Page 21, after line 27—
Insert:
(4a) Section 45(1)(f)—delete 'paragraph (e)' and substitute: paragraph (d)(ii)

This amendment corrects a technical error in the drafting.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

[Sitting suspended from 5.53 to 7.45 p.m.]

STATUTES AMENDMENT (ELECTRICITY AND GAS) BILL

Adjourned debate on second reading.

(Continued from 30 June. Page 1895.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of the Liberal Party to speak to the second reading of the Statutes Amendment (Electricity and Gas) Bill. There are some questions that I want to place on the record to give the government and its advisers an opportunity to bring back replies during the second reading debate or the committee stage. I want to address general comments in relation to the debate in another place on this issue and give some of the background to the government's views as to why the legislation needed to be introduced. I note that, in debating the bill, the Minister for Energy in another place made a series of claims, and they also reflect some of the claims that he has been making publicly for the last 12 to 18 months. This is an appropriate time to place on public record the fact that many of those claims are untrue, and I suspect that the minister knows them to be untrue. Nevertheless, it suits his political purpose to continue to make those claims. One of the claims he has been making for quite a long time is that the former government had deliberately inflated the value of the electricity assets as part of the privatisation arrangements in that period; I think that the privatisation deals were being signed through 1999 and 2000.

The Hon. R.D. Lawson: Absolute piffle.

The Hon. R.I. LUCAS: As my colleague the shadow attorney-general indicates, that is absolute piffle—and I certainly agree with his description of those claims made by the Minister for Energy and the government on those issues.

The Auditor-General's reports and ETSA's annual reports of the mid 1990s make it quite clear that the revaluation of the distribution assets was done in about 1995; it was actually undertaken by the current Essential Services Commissioner, Stephen Baker, when he was treasurer of South Australia. That decision to revalue the distribution assets was made in 1995, many years prior to the government's decision to proceed with privatisation. The first suggestion for privatisation came in early 1998 after the 1997 election. The legislation did not pass until almost 18 months later in mid 1999, and privatisations did not actually start until late

1999 and through the bulk of 2000. So, the decision to revalue the assets was taken many years prior to the decision to proceed with privatisation. It was taken by a government whose then treasurer is now the Essential Services Commissioner. According to some members of the media, he has suggested to them that he was an opponent of privatisation, although, to be fair to Essential Services Commissioner Baker, I am not aware of what he has said; I am not privy to the conversations that the now Essential Services Commissioner, Stephen Baker, had with members of the media. However, they have certainly put on the record that that is, indeed, what he claims was his position. Putting aside the accuracy or inaccuracy of that claim, this decision to revalue the assets was taken by treasurer Baker and the government at the time in 1995, and for good reason.

The electricity distribution assets, evidently not only in South Australia but also nationally, were valued on a historical cost basis rather than any estimate of replacement cost. For example, some of the quite valuable distribution assets (which ultimately sold for $3.2 billion) were being valued, in some cases, at 40, 50 and 60 year old prices, being the historic cost of purchase, and that is how they were left in the books. Essential Services Commissioner Owens had made the claim that the revaluation was required nationally by the national electricity code. I am not sure whether or not that is accurate, but certainly there is other evidence that indicates that all governments during that period (the early stages of utilities competition, not just electricity but also water) were using modern day accounting methods to more properly value their assets.

Without going into all the detail of the revaluation argument on this occasion, let me summarise it by saying simply that the claims that minister Conlon has been making are untrue, and I believe he knows them to be untrue. However, that myth is now being perpetuated through the media: talk-back hosts such as Leon Byner, David Bevan, Matthew Abraham and others readily accept or do not challenge claims when they are made by minister Conlon that, indeed, these assets were cranked up as part of the privatisation process to try to maximise the return to the taxpayers of South Australia. So, that is the first area in which the statements made by Mr Conlon are palpably untrue, and there are a number of other areas.

The minister continues to make the claim that the average price increase for businesses under the first tranche of contestability was 45 per cent. I would like the government to put on the public record the evidence from an independent party as to the 45 per cent claim. Certainly there is evidence from a number of bodies and a number of reports that would support a contention that in the initial burst the prices increased on average by 30 per cent or 40 per cent, and there are arguments that they went above that. But we place on the record a request that the minister indicate the source of the claim that he makes, and continues to make, that the average price increase was 45 per cent in the first tranche.

The third area in which the minister has been making untrue statements, which he knows to be untrue, is that in its construction of the market the government sold South Australia off to a monopoly retailer—that is, there was only one retailer (a monopoly retailer) that was operating in the South Australian market. I will place on the record information provided to me through the Essential Services Commission and available on its web site which gives the facts in relation to this issue. As of October 1999 there were 15 licensed electricity retailers in South Australia. They were: ACTEW Energy, Advance Energy, AGL Electricity, Boral Energy Electricity, CitiPower, Eastern Energy, Energex Retail, EnergyAustralia, Ergon Energy, Flinders Power, National Power Australia, North Power, Optima Energy, Power Traders and Yallourn Energy. I do not suggest that all of those were as active as a small number of them would have been in terms of the tranches of contestability as they became available, but nevertheless there were 15 licensed retailers in South Australia in October 1999. In November 2000 there were 12 licensed retailers; in November 2001 10; in November 2002 10; and in November 2003 11. So, as we went into the critical period of the final tranche of contestability for the small customers in January 2003, there were either 10 or 11 licensed retailers in the South Australian marketplace, and the claims made by minister Conlon that there was a monopoly retailer, therefore by definition indicating that there was no other retailer in South Australia, were untrue.

It is correct, of course, to say that in the original arrangements there was the one retailer but, as part of the introduction of competition through the various tranches of contestability, as each tranche of new business was opened, any organisation that was able to be licensed by the independent regulator at the time was able to compete for customers in that tranche of contestability, that is, for the big business customers, the medium customers, and the smaller customers and, finally, the small customers at the end. So, whilst there was certainly a dominant retailer (and one cannot argue against that), it is untrue to claim that there was a monopoly or a single retailer operating in the marketplace.

Of course, right through until 2003 (during that period before full competition in the market), the government had protected the small customers through a single retailer arrangement, because full retail competition had not been opened up in that area. During that period customers were protected by electricity price rises that were not able to be any greater than the consumer price index. Protection for households and small customers in South Australia was written in for the first three to five years through to January 2003. So that is a further example of the untrue statements made by the Minister for Energy.

In other areas the minister has been critical of the former government. In relation to the removal of cross-subsidies in the energy market in South Australia, information is available in press releases and other public statements made in the late 1980s. I refer to a 1987 news release of the then minister for mines and energy, Ron Payne, entitled 'Comments sought on energy tariff report', which highlights that the former Labor government, back in 1987, took the first conscious decision to crank up the price for retail customers in South Australia and reduce the prices for business customers in South Australia.

I am not seeking to be critical of the policy decision because the argument used by the former Labor government was the same as that used by the former Liberal government—that is, if you want business to be competitive in South Australia the removal of cross-subsidies does make sense. However, what I am critical of is the current Minister for Energy seeking to claim that the removal of cross-subsidies is as a result of privatisation or entry into the national electricity market when the facts in the electricity industry indicate that it was a decision of the former Bannon Labor government, supported by the current Premier, Mike Rann—but probably not Kevin Foley at that stage; I am not sure how active he was in 1987 in the Labor Party—who was

active within the Labor Party in South Australia. That removal of cross-subsidies continued all through the 1990s.

As a member of the former government, I concede that decisions taken by the former government, particularly when the then minister for infrastructure, John Olsen, was there from 1993-97, continued the removal of cross-subsidies, but that decision was started by a Labor government in 1987, by former premier Bannon and supported by the current Premier, Mike Rann. As we have highlighted before in relation to the introduction of the national electricity market in South Australia, those decisions were signed off by former Labor premier Lynn Arnold, who was advised by current Treasurer Foley and supported by current Premier Rann.

In more sober and saner moments, even the current Treasurer will concede the accuracy of those claims—that this process in its more recent period was started by federal Labor governments and state Labor governments and, as we will readily concede, continued by Liberal governments during the period of 1993 to 2002. So let us not hear any more rank hypocrisy from minister Conlon, Premier Rann and Deputy Premier Foley—and members of the Labor Party in the Legislative Council—in relation to this issue of the introduction of competition in the electricity market in South Australia. The removal of cross-subsidies was a deliberate policy of cranking up the prices for households and reducing the prices for businesses for electricity in the South Australian marketplace.

This goes back to premier Bannon, minister Ron Payne, and this press release of 30 January 1987—a response by the Bannon Labor government on the Energy Tariff Report of 1987. No amount of bleating and squealing by members of the Labor Party back bench in this place will be able to deny the facts in relation to the removal of cross-subsidies.

Members interjecting:

The PRESIDENT: Order! It is highly unruly for members to interject when a member is debating a matter.

The Hon. R.I. LUCAS: Now that we have woken the slumbering masses, let me move on to the issue of the claims made by the Minister for Energy on the weighted average cost of capital. The Minister for Energy claimed a weighted average cost of capital in the former electricity pricing order of some 8.5 per cent, which I think more accurately was around 8.3 per cent; and he claimed that the average return across Australia from distribution companies was 7.6 per cent. Again, evidence provided and publicly available indicates the inaccuracy of both the claims of 8.5 per cent and 7.6 per cent made by the minister.

In relation to these claims, if the minister were to understand the background to decisions taken on the weighted average cost of capital, I say two things, but make one important point first: evidence that is publicly available clearly indicates that decisions in relation to the weighted average cost of capital are taken at the time of an electricity pricing order in South Australia or interstate in terms of the current nature of the financial markets that are operating and what is a reasonable rate of return as judged these days obviously by the independent regulators but in the early days by governments who at those stages were the regulators of utility industries such as electricity.

Unless the minister is in a position to be able to say that at the specific time and date of the five-year EPO in South Australia being brought down a similar decision was taken in an interstate market in exactly the same circumstances, it is not possible to sensibly compare, in an apples for apples comparison, the weighted average cost of capital decisions between states. The closer to the timing of an EPO between the states possibly the more accurate might be a comparison.

Some members would be aware that, as we enter the discussion for the next five-year electricity pricing order, there is evidence to indicate that a decision in terms of the weighted average cost of capital will be lower. For example, ETSA concedes that, because of the changed nature of the financial market and lower average levels of interest rates, the weighted average cost of capital will be lower, as it has been in other states because of the changed financial circumstances now as compared to when pricing orders were first set down in those other states some five years ago. As the former treasurer, I reject the inaccurate statements by the Minister for Energy in another place in relation to the issue of the weighted average cost of capital. There are many others, but I wanted to highlight those four or so inaccurate and untrue claims that have been made by the Minister for Energy in relation to electricity pricing.

This bill seeks to put in place a process for a three-year proposed price path. As I indicated earlier, this government has decided to go down the path of adding to commissioner Owens three well-remunerated, part-time commissioners, commissioners Baker, Blandy and Richardson, who I understand are being paid some $50 000 a year each for essentially what is a part-time position that requires a monthly meeting in some cases. That is the government decision; it is entitled to do so. I must admit that, should I have been in that position, I would not have been as attracted to the notion of appointing three commissioners and I would have had a different view in relation to the selection of some of those commissioners to the Essential Services Commission.

The government should place on the record in its reply to the second reading debate the governance arrangements of the Essential Services Commission in relation to the processes that the government is seeking to outline, that is, the proposed price path, etc. Who speaks on behalf of the Essential Services Commission? Do each of the four commissioners have the capacity to speak publicly as independent commissioners with equal power, as I understand it? What is the governance arrangement in relation to the management of staffing in the Essential Services Commission? Has that issue been delegated in some way by the other three commissioners to commissioner Owens in terms of the management of staff and processes within the Essential Services Commission?

Is there a policy regime in terms of governance that commissioner Owens and the other commissioners have agreed as to the practical issues of decision making? I seek to clarify on the public record my understanding that, if there is a split vote 2:2 amongst the commissioners on such a decision, commissioner Owens has two votes, that is, a casting vote. My understanding is that that is correct, that in the event that the commissioners split two-all on a particular decision, commissioner Owens has a casting vote or a second vote to resolve any deadlock between the commissioners. If one had the view that there should be more than one commissioner, as a government it would seem to have made more sense potentially to have three or an odd number of commissioners rather than an even number of commissioners as the government has determined.

The bill seeks to require retailers to submit a proposed price path for the upcoming three-year period. I seek information from the government about the practicality of the decision making. Let us say that the commissioners agree to a 3 per cent or 4 per cent annual price increase for the next

three years, so the commission would announce, in essence, a 9 per cent to 12 per cent increase in prices over a three-year period. Given the rapidly changing nature of the electricity market, can the minister outline in practical terms what the commission can do during a three-year proposed price path if someone puts evidence to the commission that there has been a radical change in the electricity market during that three-year period?

When there is an annual price adjustment or decision, the capacity still exists for a change in the market but there is not a long period to wait before there is a chance for the commission to adjust the prices to take into account such a change in the market. With a proposed price path, I understand that the government believes that there is some flexibility in relation to the commission's operation of it. I would like the government to outline in some detail the circumstances where, for example, there was a major change and the commission felt there had been a rapid reduction in contract prices in the electricity market and there was some justification for a potential price reduction in electricity 18 months into a proposed three-year price path.

In those circumstances, how does the government intend that these new pricing arrangements will operate? What impact on prices might be felt in the electricity market in South Australia as a result of the process that the government is now wishing to implement? I noted in the second reading debate in another place that the minister refers to the report of the Independent Pricing and Regulatory Tribunal from New South Wales. The minister had the good grace to acknowledge that the report largely endorsed the methodology adopted by the commission which, as you remember, Mr President, was under attack from the government, from Commissioner Blandy and from others. Commissioner Owens' report was roundly condemned by the government, government ministers and advisers and Commissioner Dick Blandy.

An independent report from the regulator in New South Wales was brought in over the top to have a look at the circumstances. Certainly, the government and its advisers gave the impression to some sections of the media that this was going to be used as a lever to get rid of Commissioner Owens. But, surprise, surprise, Commissioner Owens had the last laugh at the expense of Premier Rann and the Minister for Energy, Mr Conlon, because the independent New South Wales regulator largely endorsed the methodology adopted by Commissioner Owens in relation to his last pricing decisions. That is the background to the electricity issue and the questions I put on the record.

I now turn to the gas element of what we have before us, which seeks to outline similar procedures in relation to gas. In doing so, I want to put some explicit and specific questions about this issue to the government to try to clarify some confused figures in relation to the extent of gas price increases since the government assumed office in March 2002. A number of statements and claims have been made by members of parliament in government and opposition and media and industry commentators about the extent of price increases. I now seek specific responses from the government to clarify these issues.

The government has now announced three price increases: 11 July 2002, 1 July 2003 and 28 July 2004. Since the last election there have been three specific gas price increases. Under the definition of the area of percentage maximum gas price increase (overall gas tariff increase), I am advised that in July 2002 the increase was 6 per cent, and in July 2003 the increase was 3.46 per cent. I ask the government: what is the July 2004 increase so that we can see the cumulative effect of the maximum gas price increase under the new government? Similarly, I put questions to the government in relation to the following sub-components of the overall gas tariff increase. There are three categories: residential, small business and large business.

I understand that the residential increase in 2003 was 5.6 per cent, and the residential increase in 2004 was 7.3 per cent. If those figures are correct, I seek clarification. What was the residential gas tariff increase by minister Conlon in July 2002? Similarly, in relation to small business, in 2003 I understand there was a 5.7 per cent decrease for small business, and in 2004 it was a 1 per cent decrease. What was the increase or decrease in the 2002 gas decision on small business? Finally, in relation to large business, I understand that in the 2004 decision the minister claimed a 5 per cent reduction for large businesses. What was the reduction or increase in the 2003 and 2002 decision for large business customers in terms of the overall gas tariff increase?

Staff in my office have also been working through *government gazettes* and other information provided by the government to try to look at the Adelaide metropolitan area domestic tariff increases. I want to place on record some early work that has been done and seek clarification from the government as to what the increases actually were in respect of the 2003 increase. As I said, the information available to me in relation to the 2003 increase was that there was a 3.46 per cent maximum gas price increase overall, a 5.6 per cent increase in residential and a 5.7 per cent decrease for small business. On the figures provided by my staff, if one looks at the Adelaide metropolitan area domestic tariff general, the supply charge quarterly, the previous charge in 2002 was $23.74; the new figure in 2003 was $27.58—or an increase of 16.2 per cent. The supply charge per annum similarly increased from $94.96 to $110.32—a 16.2 per cent increase. In relation to the first 4500 megajoules, the cents per megajoule tariff increased from 1.567 to 1.8202—an increase of 16.2 per cent.

The additional megajoules over the 4 500 mark (cents per megajoule) went from 1.009 to 1.1721, which my staff tell me is a 16.2 per cent increase. If you look at the domestic tariff for pensioners, the quarterly supply charge again went from $22.04 to $25.71, which is a 16.7 per cent increase. The supply charge per annum went from $88.16 to $102.84, which is an increase of 16.7 per cent. The first 4 500 megajoules (cents per megajoule) went from 1.567 to 1.8202 (16.2 per cent), and additional megajoules (cents per megajoule) went from 1.009 to 1.1721, or 16.2 per cent. Without going through all the numbers for the commercial and industrial tariff areas, the numbers come through at an increase of 3.7 per cent.

My questions are obvious. If those numbers are correct—and we certainly seek clarification from the government—and the numbers listed in relation to domestic tariff (general) and domestic tariff (pensioner) all show increases of greater than 16 per cent, how does the government justify its claim that the overall maximum gas tariff price increase was only 3.46 per cent and that the increase for residential customers was only 5.6 per cent? We seek a justification. Similarly, we seek information in relation to each of those areas I have just listed—namely, the Adelaide metro area; domestic tariff (general); domestic tariff (pensioners); and commercial industrial tariff—for the 2004 pricing order. My office has not been able to find the individual charges from the *Gazette*,

or from any other publicly available source, so that we can again do a calculation to get behind the accuracy of the claims the government has made about a 7.3 per cent increase in the residential price.

It will not surprise you to know, Mr President, that I am a cynic in relation to not only the Minister for Energy's capacity for work but also his capacity to understand his portfolio and, frankly, to put accurate information out into the public arena. Nevertheless, I will give him at least the courtesy of hoping that, through the answers he provides to the minister in this chamber, he can defend the accuracy of the claims he has been making in relation to the maximum gas price increases. The spin the government has been putting on this issue is that it is a 7 per cent increase in the 2004 order. I will not go back through the numbers of 2003 and 2002. We want to see a detailed response. Certainly, the opposition will want to pursue this issue in some detail at the committee stage, because it is obviously critical in considering this bill that we understand what the government is doing in the pricing of gas.

Finally, I understand that the Hon. Mr Xenophon, in his inimitable fashion, has placed some amendments on file in relation to information that might be required to go on electricity bills, or possibly now even gas bills, as a result of some discussions with the shadow minister for energy (Hon. Wayne Matthew). The opposition is sympathetic to the Hon. Mr Xenophon's intention in this area, obviously subject to the caveat that we think it ought to be practical and certainly not an unusually onerous financial burden to the companies in terms of what is being required of them. We will be interested to know the government's response in relation to the amendments at an early stage and also to hear from the Hon. Mr Xenophon what consultation he has had with the industries concerned in terms of those potential costs and whether or not there are any concerns with the amendments he has flagged by placing them on file.

The Hon. SANDRA KANCK: The Democrats support the second reading of this bill, although we doubt that it will achieve anything for household consumers. One has to read quite a distance into the government's second reading explanation before one gets a clue as to what this bill is about. Basically, it seems to be in response to the stand-off that occurred towards the end of last year about the price that the Essential Services Commission had set at the end of 2002 for the 2003 year. The minister's speech states that the Chair of the New South Wales Independent Pricing and Regulatory Tribunal (IPART), who was brought in to adjudicate on the price ESCOSA had set, made some recommendations, one of which was to improve clarity and transparency for determining justifiable standing contract prices.

Ultimately, that is what this bill is all about. It is before us because of the failure of the national electricity market to deliver on the promise of cheaper electricity through competition. The folly of the belief that creating a market would necessarily deliver cheaper electricity has been exposed by the 30 per cent jump in the price of power for South Australian households since full retail contestability. It has led to a series of ineffectual attempts to staunch the flow of money from South Australian households to multinational power companies. The first was the creation of ESCOSA's price justification powers. Let me say that I have no particular fight with ESCOSA. This parliament passed legislation that told the Essential Services Commission that, in determining any prices, it had to take into account the profitability of these businesses.

However, it did leave us with the spectacle of ESCOSA signing off on that extraordinary price rise in electricity that beset us from 1 January 2003, effectively with the consent of parliament, because parliament had bought itself out of the argument and let the minister off the hook. There have been attempts to try to solve some of the problems of the national electricity market. Last year we debated legislation to impose heavy fines on generators that were found to be gaming the market. The difference it made has been diddly-squat. There has been no difference in the price as a consequence of that legislation passing. Now we have this legislation before us requiring retailers to submit a proposed price path for the upcoming three year period, together with a justification for those prices.

The recently expanded commission will then rule on those price pathways, but what we do not have is a fundamental recognition that the deregulation and privatisation of the electricity market is fundamentally flawed. Fiddling at the edges of the problem will not restore prices to a level commensurate with pre-deregulation and privatisation, because creating a market for an essential service which is delivering a commodity which basically cannot be stored and for which demand fluctuates, sometimes dramatically, during any 24-hour period was always going to be fraught with difficulties. Deregulation paved the way for that ultimate folly, and privatisation followed just as we had predicted. Multinational power companies bought what electricity consumers of South Australia had already paid for and now we are paying for it again.

For almost as long as I have been in parliament I have been fighting against the movement that delivered us to this point, very often with the Democrats finding ourselves on our own. I remind the parliament that only the Democrats opposed the corporatisation, the competition, the disaggregation and the deregulation of the electricity industry, and if this government—the ALP in opposition—had showed some sort of understanding of the industry and joined the Democrats at that time, we might not be facing the current situation. Along with the Labor Party, we opposed privatisation of ETSA but by then it was too late. If I had my way, I would have ETSA returned to being a vertically integrated entity with a charter to deliver the cleanest, cheapest electricity possible. Then, underneath that, I would have a sustainable energy authority dedicated to managing the difficult transition to an environmentally sustainable electricity industry.

That is certainly not part of the agenda with the national electricity market, which is based on maximising profit for the privatised companies. It certainly will not happen under this government, which is the most conservative of Labor governments, because it has no intention of flying in the face of this economic orthodoxy. Despite the manifest failure of the national electricity market, the government will only tinker at the edges, as it is doing with this legislation. At the end of it, when we pass this bill, South Australians will go on lining the pockets of shareholders of multinational power companies. This legislation will do nothing to alter that: it is just that consumers will be able to see it more clearly, but they already know that all this economic theory has bled them dry. This bill will not solve the problems that deregulation of energy markets has brought us, nor will it give us cheaper energy prices: instead, it will give us more of the same, but it will be more transparent. It is not a solution, and the government must surely know that.

The Hon. G.E. GAGO secured the adjournment of the debate.

CONVEYANCERS (CORPORATE STRUCTURES) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 30 June. Page 1931.)

The Hon. IAN GILFILLAN: Since the Hon. Robert Lawson is not in the chamber, and I assume he will not be upset, I will make the Democrat contribution indicating that we will be supporting this bill even though, to a degree, it is pandering to the malefic whims of the National Competition Council. This bill is mostly harmless, in that it reduces ownership restrictions for conveyancing companies so that non-conveyancers can have some ownership of these companies, provided that the majority of the directors of the company are registered conveyancers and the company is managed by a registered conveyancer. Thus, we allow for circumstances where a more or less silent partner provides capital and/or skills to the company without being able to direct that company's business decisions. I note with interest that in clause 5(4) we are preserving the presumption that land agents and financiers will not be owners or directors of conveyancing companies, as history tells us that it is all too common for conflicts of interest to arise in these circumstances, where land agents and financiers become involved as owners and/or directors of conveyancing companies.

I note also that the exception to this rule for prescribed family members, defined in the Conveyancers Act 1994 as a spouse, parent, child or grandchild, is maintained so that small family real estate practices and small family conveyancing practices can continue. We rely on these firms being able to manage conflicts of interest, and while I have a concern about the inevitable tensions that must ensue, I am a stalwart defender of small business. Provisions in clause 6 dealing with the proper management of conveyancing businesses and improper dealings related to conveyancing also meet with our approval. Thus, although we have ongoing concerns with the undue pressure that the National Competition Council exerts by interfering in the affairs and the right of the states to manage our own affairs as we see fit, we see no particular reason to oppose this bill and will support the second reading. I indicate that I have had discussions with a senior member of the conveyancing community who has endorsed the impression I have given that the legislation does no harm and is accepted by the conveyancing industry.

The Hon. R.D. LAWSON: I rise to indicate Liberal support for the second reading and, indeed, the passage of the bill. This bill is part of this government's response to a national competition policy, and it is not the only means by which those obligations might be met. In October 2000 a bill was introduced by the previous government, but it lapsed because of the calling of the election in February 2002. That bill sought to meet our competition policy objectives by introducing a code of practice which, I believe, would have been a reasonable and appropriate response to the bill. The case example given in the minister's second reading speech, Sharkey v Combined Property Settlements (a Western Australian case), is a case in which a code of conduct was involved, and the result of that case would appear to be entirely appropriate: the code of conduct was upheld and enforced.

However, in this bill the government has sought to change the ownership requirements relating to companies which exist in the current Conveyancers Act. The current act enables a company to be registered as a conveyancer, but provides that a company is not entitled to be registered as a conveyancer unless the constitution of the company (described in the act under the old terminology of memorandum and articles of association) contains stipulations that its sole object is to carry on the business of a conveyancer. So, one cannot have a company which is also a land agent, an accounting firm or something else as a registered conveyancer.

The current provision goes on to say that the directors of the company must be natural persons who are themselves registered conveyancers but, where there are only two directors, one may be a registered conveyancer and the other may be a prescribed relative of a conveyancer—and 'prescribed relative' is described as a spouse, child or other close relative (I do not have the precise definition in front of me). That is the scheme of the current act. One can see that, from the perspective of competition regulation, that provision is an impediment to economic efficiency by requiring that the company only have one particular business and that its directors have particular qualifications. This is amended and ameliorated to provide that no person may be a director of a company which is a registered conveyancer if that person is a prescribed person (which is defined), and new section 7 provides that a company is not entitled to be registered as a conveyancer unless the constitution of the company (using the modern terminology) contains the stipulation that the sole object of the company must be to carry on a business as a conveyancer. We certainly agree with the requirement that there be a degree of specialisation.

It goes on to say that the majority of the directors must be natural persons who are registered conveyancers and, once again, where there are only two directors one may be a registered conveyancer and the other may be a person who is not a registered conveyancer, but the additional director is not required to have any relationship—whether by marriage or blood relationship—with the other director. The majority of voting rights exercisable at a meeting of members must be held by registered conveyancers who are directors or employees of the company, and no share in the capital of the company and no rights to participate in the distribution of its profits may be beneficially owned by a prescribed person.

The purpose of this amendment is to meet our competition policy obligations to ensure that the public (consumers of conveyancers' services, in particular) are not prejudiced by the activities of the companies that carry on business as conveyancers. The Western Australian case to which I referred indicates the possibility of serious conflicts of interest arising where people involved in conveyancing businesses are also active in land transactions. There is also a possibility, which is undoubted, of the situation where non-conveyancers control conveyancing businesses and the duties of the conveyancer are in conflict with the owner's interests in maximising profits.

It is noted by the minister in his second reading explanation that the government considered adopting the New South Wales and Western Australian models but has decided to not pursue that avenue. We are comforted by the advice obtained by the shadow minister in another place (my colleague the member for Morphett) that this bill in its current form has the support of those who are engaged in the conveyancing industry in this state. I indicate support for the passage of the bill.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank the Hon. Robert Lawson and the Hon. Ian Gilfillan for their indications of support for this bill and I look forward to its speedy passage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: I ask the minister to put on the record the consultations that have been undertaken by the government in relation to this bill. As I read the second reading explanation, there was no particular acknowledgment of consultation by the government, nor was there any indication of the result of consultations.

The Hon. P. HOLLOWAY: I am advised that there was consultation with the conveyancers' institute. Indeed, as I understand it, the bill was developed in consultation with the conveyancers' institute, not surprisingly. I think it would be fair to say that the conveyancers would have preferred no change but, given the dictates of competition policy, I think it would be fair to say that they were in broad agreement with the bill as it is put forward, even though they probably would have preferred things to stay as they were.

The Real Estate Institute of South Australia was consulted, and I have a copy of a letter from the Chief Executive Officer, Joyce Woody, which states:

> We refer to the letter from your Chief of Staff dated 28 May 2004 seeking written comments on the Conveyancers (Corporate Structures) Amendment Bill 2004. We thank you for the opportunity to respond.
>
> As you would be aware, the Real Estate Institute of South Australia Incorporated (REISA) objected strongly to the proposition that solicitors registered as land agents should be able to undertake conveyancing work. We are delighted that in removing some of the current ownership restrictions of conveyancing companies the Conveyancers (Corporate Structures) Amendment Bill 2004 acknowledges that the roles of land agents and conveyancers must remain separate. The institute maintains its strong stance against the potential conflicts that may arise where the roles of land agent and conveyancer are conducted by the same person or the same company. We remain committed to advancing the cause of consumer protection in this state.
>
> Yours faithfully,

Also, I believe the Law Society was consulted, and I can read its response. It was addressed to the Chief of Staff at the Attorney-General's office and states:

> Thank you for your letter of 28 May in which you invited the society to comment on the provisions of the Conveyancers (Corporate Structures) Amendment Bill 2004. The society's Property Law Committee has considered the bill. Whilst not wishing to make any detailed comment on the bill, the society urges that, where possible, there should be ongoing parity between the conveyancing profession and the legal practitioners who carry out our conveyancing work.
>
> Yours sincerely, Jan Martin, Executive Director.

Clause passed.

Clause 2, schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

APPROPRIATION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2062.)

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank members for their contributions to this bill. The Leader of the Opposition raised some questions in his contribution several weeks ago and, as was indicated at the time, the government has responses for him. I will put those on the record now. The Treasurer has provided the following information:

> At the time of the 2004-05 budget, the government was involved in a number of sensitive enterprise bargaining negotiations. It is still involved in some of those negotiations, and others will begin shortly. It has been a long-standing practice that the government's wage provisioning amounts for specific agreements are not disclosed in publicly available data as this would compromise negotiations. It was therefore decided to hold a major component of the contingency for wage provisioning separate to the salaries and wages line. These reside within the other contingency provisions in the Treasury and Finance Administered lines.
>
> Therefore, the statement that a large proportion of the total contingency provisions relate to potential enterprise bargaining outcomes is correct. The 2004-05 contingency allowance for increases associated with the current teachers enterprise agreement was moved to the DECS budget when that agreement was struck. Provisions for teachers' salaries are set aside in contingencies from 2005-06 onwards, as the next round of remuneration increases for teachers is not expected until 1 October 2005. Negotiations are yet to begin.
>
> In relation to the nurses enterprise agreement, the minister correctly stated the breakdown of 16.5 per cent. The increases in date order are:
>
> 3 per cent on 1 July 2004
> 3.5 per cent on 1 October 2004
> 1.5 per cent on 1 July 2005
> 3.5 per cent on 1 October 2005
> 5 per cent on 1 October 2006
>
> These percentage increases relate to all classifications and therefore a 16.5 per cent increase will be provided to all employees. The circumstances of each nurse will vary in terms of allowances provided. For a nurse that is classified at RN1 (level 5) and who had a base salary level of $42 849 per annum (excluding any penalties and allowances otherwise provided) as at 30 June 2004, the base salary would increase by $1 285 on 1 July 2004; by $1 545 on 1 October 2004; by $685 on 1 July 2005; by $1 623 on 1 October 2005; and by $2 399 on 1 October 2006, such that the base rate would be $50 386 per annum on 1 October 2006. Table 1 shows the estimated cost of the final agreement, including each component of the agreement.

I seek leave to have that table incorporated in *Hansard*.

Leave granted.

Table 1—Enterprise Bargaining with nurses

		2004-05 $	2005-06 $	2006-07 $	2007-08 $
Salary increases over 3 years	16.5%	-34,001,189	-65,838,057	-96,517,107	-104,862,131
Non-salary items requested					
Case load—RN3 relief		-4,222,074	-5,809,368	-6,078,609	-6,151,845
Country incentives		-1,583,242	-2,424,861	-2,673,708	-2,816,716
Qualification allowances—RN and EN		-8,738,341	-12,023,532	-12,398,397	-12,547,775
RN 1 allowance		-1,489,280	-1,489,280	-1,489,280	-1,489,280
Night duty penalty		-742,838	-1,022,109	-1,069,480	-1,082,365
On call allowance		-339,112	-356,245	-372,756	-377,247
Night duty—extra 2 hours per shift		0	-12,833,231	-26,628,954	-27,378,710

Table 1—Enterprise Bargaining with nurses

	2004-05 $	2005-06 $	2006-07 $	2007-08 $
Maternity leave (8 weeks maternity)	-1,283,342	-1,765,816	-1,847,654	-1,869,915

The Hon. P. HOLLOWAY: The Treasurer's information continues:

Comparisons of the rankings of South Australian teachers, police and nurses with other jurisdictions are not possible in a meaningful way due to the variations in such things as duties performed. It is not possible to provide rankings for future years as it would require assumptions to be made about future pay rises for teachers, police and public servants in South Australia. These pay increases are all subject to future or continuing negotiations.

They are the comments in relation to contingency allowances for wage increases. The Leader of the Opposition also asked about the naval ship building contingency, and the Treasurer has provided the following information:

On 5 September 2003 all states and territories, with the exception of Queensland, agreed to work together to eliminate unnecessary bidding competition and to restrict the use of financial incentives in seeking investments and major events through cooperation and information sharing. The focus of the agreement is that states should generally avoid competing to attract investments by providing subsidies to particular firms. However, the agreement does not prevent states from competing on the basis of their economic fundamentals, including such things as the quality and productivity of their work forces, their industrial relations climate and the quality of their infrastructure.

This agreement will discourage the counterproductive and very expensive bidding wars that took place in the past. The previous regime encouraged rent-seeking behaviour by private firms which saw taxpayer funds paid to private firms out of all proportion to any benefits gained by the state or the nation. The new arrangements provide value for money for taxpayers and encourages investment to be located where it is most competitive, not where it gets the biggest subsidy. Accordingly, the government is committed to ensuring that South Australia maximises its fundamental comparative advantages for major defence investments, including developing appropriate infrastructure to make it more attractive for the bidders of these projects to locate in South Australia.

The Leader of the Opposition then referred to the Port River Expressway. The Treasurer has provided the following information:

In response to the honourable member's questions regarding the scope and finances of the Port River Expressway project, I provide the following information. The total budgeted capital cost of the Port River Expressway, stages 2 and 3, is $136 million. This project is for the construction of new road and rail bridges across the Port River between docks 1 and 2. The road bridge connects the stage 1 roadworks on Francis Street, on the eastern side of the river, with Victoria Road on the western side. The rail bridge connects the line to the existing grain terminal with a line to Outer Harbor parallel to Elder Road on the western side of the river. Capital expenditure associated with this project is reflected on page 29 of the 2004-05 Capital Investment Statement, Budget Paper 5.

The total budgeted capital cost of the Port River Expressway, stage 1, is $85 million. This project is for the construction of a new four-lane road between Francis Street and the Salisbury Highway-South Road connector, including road bridges over Eastern Parade, South Road and Hanson Road. Capital expenditure associated with this project is reflected on page 42 of the 2004-05 Capital Investment Statement, Budget Paper 5. In addition, a total of $9 million has been allocated for roadworks associated with rail infrastructure upgrades on the Le Fevre Peninsula and the upgrade of the Pelican Point Road to handle B-double trucks. These measures support the Port River Expressway project but do not specifically fall within the scope of stages 1, 2 or 3 of the project. The expenditure is reflected on page 2 of the 2004-05 Capital Investment Statement, Budget Paper 5.

The government has established a new public non-financial corporation, the South Australian Infrastructure Corporation, to be responsible for the construction of the Port River Expressway, stages 2 and 3. The corporation is planned to take ownership of and operate the bridge assets on behalf of the government. The corporation is budgeted to receive a subsidy towards construction costs designed to ensure that it earns a commercial rate of return on its investment. Budgetary support for the corporation will be limited to the construction subsidy. The corporation will be expected to operate on a fully commercial basis thereafter, including paying dividends and tax equivalents to the state.

The total subsidy to be provided by the state government to the corporation for the construction of the Port River Expressway, stages 2 and 3, is budgeted to be $62.3 million over the forward estimates period. Of this amount, $58.2 million is budgeted to be paid in 2004-05 as identified in table 6.2 and footnote (f) to that table of the 2004-05 Budget Statement, Budget Paper 3.

Prior to the budget there was speculation that the commonwealth could provide funding of up to $64 million for the Port River Expressway, stages 2 and 3, plus an additional $11 million for the upgrade of infrastructure on the Le Fevre Peninsula. However, there was no official advice from the commonwealth to this effect. Accordingly, as the state budget was approved ahead of the commonwealth's Auslink funding announcement, the state budget continued to provide for a conservative $15.4 million commonwealth funding contribution to the Port River Expressway, stages 2 and 3. Of this amount, $10.3 million was budgeted to be received in 2004-05 as identified in footnote (f) to table 6.2 of the 2004-05 Budget Statement, Budget Paper 3.

The commonwealth government has subsequently provided a conditional funding commitment of $80 million for the Port River Expressway, stages 2 and 3, and the upgrade of rail infrastructure on the Le Fevre Peninsula. This funding is budgeted by the commonwealth to commence in 2006-07. The timing of this conditional funding commitment is the subject of ongoing discussions between the state and commonwealth government. The revenue, operating costs and capital expenditure of the corporation do not directly impact on the budget's general government net lending measure. The operations of the corporation impact on general government net lending by the payment of grants and subsidies to the PNFC and future dividends and tax equivalent payments from the corporation to the government. This is reflected in table 6.2 of the 2004-05 Budget Statement, Budget Paper 3. No dividend is budgeted to be received in 2004-05.

The next issue that the leader raised related to the government's cash alignment policy. The Treasurer has provided the following information:

The cash alignment policy makes no reference to savings achieved by an agency within its expenditure authority and the ability to reallocate those savings within the portfolio. A review of individual agencies' cash balances will be undertaken every six months to assess the impact of the policy on agencies. Transfer of surplus cash from an agency to the surplus cash working account will take place twice a year in August, based on 30 June balances, and in January, based on 31 December balances. Where surplus cash balances are agreed, the surplus cash will be transferred to the surplus cash working account. The surplus cash will remain in this account until the end of the financial year to ensure the funds are surplus to an agency's requirements before being transferred to the Consolidated Account.

Agencies will be able to request the retrieval of surplus cash previously transferred to the surplus cash working account, that is in the current financial year, via application to the Department of Treasury and Finance. This would be in cases where they are able to demonstrate that the cash previously transferred is no longer considered to be surplus cash. Upon approval, the return of surplus cash will be processed for value to the agency's operating account. The surplus cash working account will not be interest-bearing for agencies. Where agencies' forward estimates show expenditure being funded from cash balances or from interest revenue, these sources of funds may be replaced with appropriations. Agencies need to request such increase to appropriation as part of the budget process.

The treatment of return of surplus cash will be determined with agencies prior to the surplus cash being transferred. The following accounting treatments are available for agencies that transfer surplus cash. Where agencies have equity contributions from the Treasurer, transfers of cash may be made by a return of equity. Where agencies

have a debt with the Treasurer, that is, a loan that it is clearly identified as a liability within the statement of financial position, they will be given the opportunity to retire that debt. Where agencies have no equity and no debt, the transfer of surplus cash will be shown as a payment to government. This will be recorded as an expense outside of net cost of services, that is, within the revenues from government sections on the face of the statement of financial performance for the period, and would be disclosed in a note to and forming part of the statement of financial performance. Only DAIS, Human Services and SAPOL have elected to return equity.

In respect of the Department for Environment and Conservation, the movement from the 2003-04 estimates result of $78.2 million to 2004-05 budget of $97.4 million is largely as a result of accrual appropriation of $13.7 million and additional working cash provided of $8 million, offset by an inherent run-down in cash as a result of 2004-05 operations of about $2.5 million. Of the overall cash of $97.4 million, approximately $89 million of this amount is held in the accrual appropriation excess funds account. In response to a previous question on the level of understanding/overspending by agencies during 2002-03 asked during the third session, details of variations between the 2002-03 original budget, the 2002-03 actual results were provided on the 22 March 2004 for agencies in the general government sector. Information in respect of 2003-04 will be available once the 2003-04 actual results are produced. In response to the question on actual stamp duty collections compared with budgeted dollar amounts from 1998-99 to 2003-04, the following amounts are provided.

I seek leave to have incorporated in *Hansard* a table that shows the budget in actual amounts for the years from 1998-99 to 2003-04.

Leave granted.

Year	Budget $ million	Actual $ million
1998-99	520.6	547.3
1999-2000	546.6	716.3
2000-01	597.7	705.8
2001-02	606.0	764.4
2002-03	719.6	901.0
2003-04	822.3	1 080.0*

*Note that for 2003-04, the estimated result supplied is as published in the 2004-05 Budget Statement.

The Hon. P. HOLLOWAY: I believe that answers the questions asked by the Leader of the Opposition specifically during the first part of his Appropriation Bill address. In his response this week the Treasurer made some general comments, on which I would like to comment. He states:

> The point I made was that decisions that had to be made at this time—

and he is talking about the current budget reposition—

> are significantly different from the decisions that needed to be made during the 1990s. . . they are much less difficult than the decisions that were required in the 1990s when significant cuts had to be instituted right across the public sector, together with widespread action to try and generate additional state-based revenue and income to help balance the state budget.

The point that the Leader of the Opposition was trying to make is that he has accused the current government of reinventing history. One thing I would like to point out is that, when the previous government came to office at the end of 1993, one of the little windfalls that it received during 1994 was the revenue from poker machines that had been set up by the previous Labor government in 1993. Of course, the then Liberal government in 1994, and particularly the then premier, were very quick to criticise the Labor government for doing that but, as we know, that poker machine revenue added some hundreds of millions of dollars to state revenue after 1994.

What did the current government get when it came to office in 2002? One of the things that the economy of the state was hit with was retail contestability for electricity which took place at the end of 2002, and we know what impact that has had on electricity prices within this state. It has added something in the order of $300 million to the cost of electricity to consumers in this state. That has obviously had a significant dampening effect on the economy within the state. So, if we are going to talk about reinventing history, I think there are two sides to that story, and I would like to make sure that at least that part of the record is corrected.

In his address the leader also made a number of comments about the current performance of the economy. I would like to place on record some statistics in relation to how our economy is presently performing. We know that for the year to June 2004 employment was very similar to that in the previous year. There was a nominal net loss of 100 jobs to the year to 2004, compared with the previous year. If one looks at the year 2002-03 from June to June, about 25 300 net jobs were added to the South Australian economy. Hence, the number of unemployed people in South Australia increased by 3.6 per cent over the period from July 2002 to June 2004, compared with an increase of just 2.1 per cent in the preceding two year period from July 2000 to June 2002.

Moreover, the level of employment in South Australia has been increasing continuously since December 2003. We should also note that job vacancies in the state are at a three-year high. Drake International's quarterly employment forecast for July to September 2004 suggests that South Australia can expect 4 854 new jobs over the coming three-month period (a 0.9 per cent increase in total employment) and that, on balance, 19.9 per cent of businesses will be in recruitment mode between July and September—the strongest result of any state and territory.

We can also look at the Manpower employment outlook survey for the same time period, which indicates that South Australia has the highest net positive outlook for new employment in the country, aside from the Northern Territory. So, those figures present a much more promising picture than the negative picture the Leader of the Opposition was trying to paint.

If one looks at unemployment, in recent months South Australia, and Australia as a whole, has once again been trending downwards in terms of its unemployment rate. The trend unemployment rate of 6.2 per cent in June 2004 is lower than the year-on-year comparison, with the rate in June 2003 being 6.3 per cent. For comparison, the national rate of 5.5 per cent in June 2004 compares with a national rate of 6.2 per cent in June 2003. The 0.7 per cent gap between South Australia's rate of unemployment and the national level is extremely low by recent standards. The table gives the average gap. If you look at 1997-98, the average gap between the state and the national unemployment rate was 1.6 per cent. In 1998-99, it was 1.6 per cent; in 1999-00, 1.4 per cent; 2000-01, 0.9 per cent; 2001-02, 0.4 per cent; 2002-03, 0.1 per cent; and 2003-04, 0.6 per cent. So, the gap is lower than historical levels.

The South Australian economy has clearly been heavily affected by ongoing drought in key agricultural regions, which has had a significant impact on rural exports from the state over the past year. The appreciation of the Australian dollar over the past two years has also had a significant impact on export earnings, both at state and national level. One can remember that at about the time of the last state election the Australian dollar was, at one period, below 50¢ to the US dollar. Of course, it rose late last year and early this year to about 80¢ to the US dollar, which is almost in excess of 60 per cent of revaluation against the US dollar. You cannot have a revaluation of that order over several years

without its having a significant impact on exports. However, the most recent export data suggest that a recovery is under way.

The Leader of the Opposition also raised some issues in relation to companies in this state, and he asked me to provide some information in relation to those that have established here. The Department of Trade and Economic Development provides the following company names that we can give in response:

- plastics: Auspoly, a manufacturer of polyester for the sofa, furniture and bedding industries, with employment of 24 FTEs. It also provides a healthy and clean insulation product to the textile, carpet and construction industries;
- automotive: Plexicor Australia, a manufacturer of interior and exterior trim. Building is currently under way at Edinburgh Park, with employment to be finalised;
- ZF Lemforder Australia Pty Ltd, ride control products, with employment to 150 FTEs. It is currently negotiating suitable land with the Land Management Corporation; and
- Siemens VDO, a supplier of cockpit modules to Mitsubishi for the 2005 Magna, with approximately 34 FTEs by 2005.

Other automotive tier 1 suppliers have also won contracts to supply components for the VE model Commodore. Those two companies are currently considering location options in Adelaide and are yet to advise the final scale of their operations. Those companies have not yet authorised release of their details. A sixth automotive supplier has also announced its intention to the Department of Trade and Economic Development to establish a substantial plant in Australia to supply Holden's, but it has requested that the details of its investment and employment remain confidential until it releases its corporate plan in August.

The Hon. R.I. Lucas: What is its name?

The Hon. P. HOLLOWAY: As I said, the company will release those details next month, so the Leader of the Opposition can wait until then. If one looks at state taxes relative to the national level, on the latest available data from the ABS for the 2002-03 year, South Australian taxation per capita, state and federal combined, was $2 010 per head, which is below the average level across the country of $2 202, maintaining South Australia's position as a relatively low taxation state. Of course, the recent reduction in the payroll tax rate is part of this budget. The government's decision reflects a recognition of the general economic principle and, within the constraints of budgetary, social and economic needs, it attempts to provide payroll tax relief in a fair and efficient manner.

In his speech, the Leader of the Opposition also made some comments about the restructure of the Department of Trade and Economic Development. He said:

> We see a minister and a government which are gutting that department as fast as they can.

Nothing could be further from the truth. When I was appointed minister, the new department had as few as three permanent employees. That figure has now risen to over 90 at the moment and will shortly reach 120, which is the planned level for the new department.

As a result of the restructure of that department, we now have a new chief executive and an executive team, and a new strategic direction is being finalised. The Office of Small Business is working with the Small Business Development Council, and they are actively working on projects aimed at supporting the growth of small business. The Office of Trade is working with the Export Council on a new program to help put South Australian exporters on the world map. The new program called MAP (about which I have answered questions recently in question time) focuses on supporting export related incoming and outgoing missions and developing the export knowledge of South Australian business. The key objectives of the MAP program are to help develop the export capability of small to medium enterprises, increase their export activity and help develop an export culture in South Australia.

The strategic projects division of the department is undertaking pro-active investment promotion to facilitate investment expansion attraction in line with the government's economic development policies. The Office of Manufacturing is working closely with the Manufacturing Consultative Council to develop a strategy for the manufacturing sector in the state to respond to global opportunities and pressures, especially the impact of China's comparative advantage in labour intensive manufacturing processes. I again refer to the fact that, over the past couple of years and since we have been in government, there has been a significant revaluation of the Australian dollar relative to the US dollar, which has certainly put pressure on some companies, and that is why it is absolutely imperative that we ensure that our manufacturing industry is well positioned to deal with that challenge.

The new department has a strong policy and strategy formulation role and will work in partnership with industry and local government to facilitate outcomes. It will have a reduced direct role in service delivery. During the restructure, the services previously delivered by the old department of business, manufacturing and trade were examined to determine whether they should continue to be delivered by the government and to identify opportunities to reduce fragmentation and duplication across government in service delivery. The downsizing of the department resulted in budget savings of $11 million, which have been redirected to higher priority areas within government. DTED functions and activities associated with the provision of grants and loans to business in particular have been cut back. This is in line with the recommendations of the Economic Development Board and the review report.

We have seen improvements in service delivery arrangements being planned in respect of small business and a new decentralised service delivery model in partnership with local government and the Industrial Supplies Establishment Office as a separate corporate entity, as is the case in most other states. Overall, the restructure is expected to result in more cost efficient delivery of publicly funded services to industry. I also point out that 40 staff were transferred to other departments such as Primary Industries and Resources, the Department of the Premier and Cabinet, the Department of Further Education, Employment, Science and Technology, the Office of the Venture Capital Board and the Office of Infrastructure Development, and associated with that was the transfer of functions from the old department of business, manufacturing and trade to other departments. It was accompanied by budget transfers totalling $18.572 million for 2004-05.

There has certainly been a restructuring of the department, but I strongly deny the claims of the Leader of the Opposition that this government has no interest at all in having a key economic development agency working in partnership with business and industry. I have outlined some of those changes, but in fact what has been done will mean that the department will work much more closely with industry, in particular in

relation to areas such as trade. For example, we expect industry to take the greater leadership role as, indeed, it should in relation to those policies. The Leader of the Opposition and other members raised a number of other questions in their contributions yesterday. We will either respond to those in writing or, if we debate the committee stage of this bill on Thursday, I may have some more information by then, but one way or another we will provide answers where we can to the leader. Again I commend the Appropriation Bill for 2004-05 to the council.

Bill read a second time.

CHICKEN MEAT INDUSTRY (ARBITRATION) AMENDMENT BILL

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

NATURAL RESOURCES MANAGEMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

STATUTES AMENDMENT (CO-MANAGED PARKS) BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 9.34 p.m. the council adjourned until Wednesday 21 July at 2.15 p.m.