LEGISLATIVE COUNCIL

Thursday 14 October 2004

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

SOUTH-EAST, BLOOD DONOR SERVICE

A petition signed by 14 298 residents of South Australia, requesting that the council do all in its power to ensure that a blood donor collection service is urgently reinstated for the people of the South-East, was presented by the Hon. S.M. Kanck.

Petition received.

GENETICALLY MODIFIED CROPS

A petition signed by 38 residents of South Australia, requesting that the council amend the Genetically Modified Crops Management Act 2004 to remove section 6 of that act, was presented by the Hon. Ian Gilfillan.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Upper South East Dryland Salinity and Flood Management—Report, 2003-04

2007 World Police and Fire Games Corporation—Report, 1 October 2003-30 June 2004.

QUESTION TIME

AUDITOR GENERAL'S REPORT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Treasurer a question about the Auditor-General's report and transparency and accountability for taxpayers' funds.

Leave granted.

The Hon. R.I. LUCAS: In recent years the finance branch of the Department of Treasury and Finance has been split into a continuing Finance Branch and a new Government Accounting and Reporting Branch. The report of the Department of Treasury and Finance, in looking at the work and activities of the Finance Branch of the department, states:

> Finance Branch continued its collection and analysis of monthly monitoring information for general government agency financial performance against budgets. The monitoring of budget outcomes and specific budget expenditure and savings initiatives was the basis of regular reports to ERBCC. This ensured that ministers were well informed about progress and could take remedial action where necessary.

Looking at the telephone directory listings used by the Department of Treasury and Finance going back to February 2003 and comparing it with the most recent one of October 2004, it indicates that the staffing listings in the Finance Branch have increased from 26 to 51 and in the Government Accounting and Reporting Branch from 35 to 47. That is a total of 37 additional staff in the Finance Branch and the Government Accounting and Reporting Branch.

I acknowledge that some of that increase may well have been due to sections of other departments being amalgamated into those branches. It is not entirely clear from the documentation that the opposition has been able to provide but, clearly, some of that increase—a significant part—is due to additional resourcing. My questions to the Treasurer are:

1. Can he clarify for the parliament the increased number of staff in both the Finance Branch and the Government Accounting and Reporting Branch between February 2003 and October 2004? What was cost of those additional resources?

2. Can the Treasurer indicate that, given the increased resources which have been provided to the Finance Branch and the Government Accounting and Reporting Branch, what responsibilities those officers have in relation to highlighting for both ministers in departments and for the Treasurer, more particularly, the sorts of lapses and breaches that the Auditor-General has highlighted in his report this week and which have been the subject of much questioning?

3. What did the account managers from Treasury and Finance do, in particular the account managers who were responsible for the Attorney-General's Department, the Department for Administrative and Information Services, the department for water resources and the department of human services in relation to the breaches and lapses that the Auditor-General has highlighted?

4. Should it have been their responsibility, as well as departmental responsibility, to have identified those particular lapses and highlight those to the Treasurer; and if it is not their responsibility, what responsibilities do they have in terms of being account managers and as the department's report says 'ensuring that ministers are well informed about progress and can take remedial action where necessary'?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Yet again I am delighted that the Leader of the Opposition should give me the opportunity to provide another history lesson on accountability under the Liberal government, in particular what comments the Auditor-General made on the previous government. I am delighted that the Leader of the Opposition has highlighted the fact that under this government there has been greatly increased resources in relation to this area. I ask members to listen to this because the Liberal opposition is trying to create this mythology that somehow or other there was good financial management under the Liberal government. In fact, it is the total reverse, so let us destroy this mythology. I begin by referring to page 4 of the overview of the Auditor-General for the year ending 30 June 2000. This is when the Hon. Robert Lucas, the Leader of the Opposition, was treasurer.

The Hon. R.D. Lawson: What about 2004?

The Hon. P. HOLLOWAY: Just listen and then you can hang your head in shame. The Auditor-General highlights these comments under the heading 'The complexities of legal compliance' and says:

> An issue of continuing importance for government is the need to ensure the legality of its conduct. To my mind the following commentary succinctly states the relevant issues in this regard.

He then quotes from Daintith and Page as follows:

> 'In the age of complex social and economic regulation, the question 'Is this legal?' presents itself with increasing frequency to individuals and corporations alike, and may be impossible to answer without reflection, research, or even professional advice. A concern for legal rectitude, supported by expert advice is however of peculiar importance to government, for at least three reasons'.

He then goes on to explain those reasons and concludes:

These considerations, of course, only operate on that minority of governments that profess to operate, and do in fact operate, according to the tenets of democracy and the rule of law.

I hope the council pays particular attention to this final paragraph of the Auditor-General in which he says:

Over the past two (2) years matters have been raised in the Annual Audit Report to parliament that indicate that certain governmental administrative arrangements may be unlawful—

The Hon. R.I. Lucas: May be.

The Hon. P. HOLLOWAY: This is the—

Members interjecting:

The Hon. P. HOLLOWAY: No, they are not. Well, of course, Mr President, if you want to create a mythology, as the Liberal Party does, you cannot let truth and honesty stand in the way. That is the Liberal way. That is what the 11 people over there are craving. Anyway, they will not deter me; they will have to listen to this.

The Hon. A.J. REDFORD: Mr President, I rise on a point of order.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: No, I just remind the Hon. Bob Sneath that the leader cannot count. There are only nine of us over here, not 11.

The PRESIDENT: That is not a point of order. It may be a mathematical error but it is not a point of order.

The Hon. P. HOLLOWAY: The Auditor-General continues:

. . . in that they are contrary to statutory provisions. No changes have been made and no reasons have been publicly advanced for maintaining the existing arrangements.

For two years under a Liberal government, they were breaking statutory provisions. They would not give an explanation and they would not change the arrangements. This government does. These are the standards that this Leader of the Opposition has the gall to stand up and say should still be applied in this state. Well, they are not, they are finished. Those standards have gone. He goes on:

So no changes have been made and no reasons have been publicly advanced for maintaining existing arrangements. Whilst it is open to the executive government to take a different view of its legal obligations, in my opinion in the context of these circumstances it would be expected that the reason for not acting would be explained. In this situation it must be assumed that the government as a matter of law holds a different view. With respect, if this is the case, the legal basis and the reasons for its position should be publicly known.

That was the Liberal standard. For two years you do not do what the Auditor-General is pointing out is not in accord with statutory provisions—you ignore it and do not give any explanation. That was the Rob Lucas standard. What did the Auditor-General say in his overview on 30 June 2001 in relation to his comments on the financial management framework (FMF)? He stated:

The FMF provides agencies of government with guidance on the critical processes and controls required for good financial management and accountability practice. It is also fundamental to this department's audit mandate and audit assessment activity.

It is fundamental to it. He continues at the bottom of the paragraph:

In an overall context, audit observed in 2000-01 that developmental work that was commenced and proceeding within agencies in the previous two years has progressed further. The level of progress, however, has not been substantive in most instances.

The level of progress on this fundamental issue—financial management progress—has not been substantive in most instances. He continues:

Only a few agencies have addressed to a satisfactory level most of the integral components of the financial management framework and issues that have arisen in agencies regarding the FMF are reported in part B of this report.

This was the environment the Rann government inherited and they were the standards. You break the law for two years and do not even explain yourself or give good reason. You just ignore it and say, 'We disagree it is against the law.' Unlike those standards this government will listen to the Auditor-General. This government has not broken the law.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Is it any wonder Rob Lucas wants to change the historical record? He does not want the truth to come out because he knows he was a dud. Under his term as treasurer of this state we had the most lax and inappropriate financial management on record. This was a government! Look at its own standards! I can remember that Graham Ingerson, Joan Hall, Dale Baker and John Olsen all had to resign in disgrace—they were the standards—all because of acts of impropriety. We will not have this Leader of the Opposition try to pretend that his government did not have those disgraceful standards. He will not get away with that nonsense. I hope the Leader of the Opposition will keep asking questions about the Auditor-General's Report and about standards because he has nothing at all to feel proud of.

The Hon. R.I. LUCAS: Is the Leader of the Government refusing to answer the question in relation to resources within the Department of Treasury and Finance, and is he also refusing to refer the question to the Treasurer for a response?

The Hon. P. HOLLOWAY: The Leader of the Opposition does not listen, but had he done so he would have heard me say at the start of the answer that I am sure the Treasurer will be delighted to explain the increase in resources.

DIRECTION TO GOVERNOR

The Hon. R.D. LAWSON: My question is directed to the Leader of the Government. What action does the government propose to take—

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Order! I cannot hear the Deputy Leader.

The Hon. R.D. LAWSON: First, what action does the government propose to take in response to the allegation that a direction given by the Premier to the Governor was not lawful and also contravened constitutional convention, given that the Speaker has now tabled these allegations and the basis for them in the parliament? Secondly, has the government provided a response to the Speaker? Thirdly, will the government table any response that it provides to the Speaker?

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

PIRSA STAFFING

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resource Development a question about—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: —the staffing of PIRSA.

Leave granted.

The Hon. CAROLINE SCHAEFER: During the last election campaign Mr Foley said:

> . . . I relish the opportunity in tapping a few fat-cats on the shoulder with their contracts and saying goodbye.

Labor made a promise to cut the number of public servants earning more than $100 000 by 50 or more. The Auditor-General's Report reveals that in PIRSA alone the number of people earning above $100 000 has gone from 24 in 2002 to 36 now—that is a 50 per cent increase—and the costing for that has gone from $2.8 million to $4.7 million in the same time. Can the minister explain why there has been that increase in fat-cat salaries in just one department?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): This is a question that the opposition has asked on previous occasions, and the answer is quite obvious. The promise that the—

The Hon. R.I. Lucas: You broke your promise.

The Hon. P. HOLLOWAY: Unlike John Howard, who is already preparing to break them this week—that must be a world record. I would have thought that the Liberals would be very quiet when talking about broken promises, because we have the Prime Minister, who has not even been sworn in and who has not even announced his ministry, already preparing the grounds for breaking a series of election promises. Apparently, the economy that could fund all those promises just last week is now not quite so rosy. It is amazing what can happen in a few days if you are a member of the Liberal Party.

In relation to the number of executives, the promise by the Labor Party was that we would reduce the number of executive positions, and we have done that. It is quite obvious that, if you have people on a salary of $90 000 or thereabouts, as you get wage rises of 4 per cent or 5 per cent after two or three years, the people who were previously on those levels will move to the $100 000 mark. So, it is quite disingenuous for members opposite to now try to use some standard like $100 000 that might have applied two or three years ago.

The Hon. R.I. Lucas: That is what you did.

The Hon. P. HOLLOWAY: No, we did not. We made promises based on what the levels were at the time, and we have reduced the number of executive positions. I have responded to this question in the past, and if the honourable member goes back and looks through *Hansard* she will see that that answer was supplied at least a year ago, I would have thought.

Quite frankly, of course, if one does not index the level at which one measures salaries—if one keeps it at $100 000—then, given that public sector wage rises are moving by 3 per cent to 4 per cent a year, it is inevitable that the number of people earning above that will rise. What is important is that the number of people in executive positions has not increased disproportionately under this government.

Members interjecting:

The PRESIDENT: Order! The combatants will come to order!

GOLD MINING

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question regarding gold exploration.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: Gold is one of the target metals—

Members interjecting:

The PRESIDENT: Order! That is enough. I cannot hear the questioner.

The Hon. CARMEL ZOLLO: Thank you, sir. Gold is one of the target metals of the government's plan for accelerating exploration. South Australia has significant potential for gold discoveries similar to the Olympic Dam ore body and the Challenger gold deposit. Does the government have any information on gold exploration, and what is the government doing to encourage gold exploration in South Australia?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for her question, because Australia's gold mining industry is a very important one. It will spend more than $8.1 billion nationally on total investment capital works, exploration and operational activities in 2004-05, according to a recent gold industry survey. The 2004 Australian Gold Council-Deloitte Gold Investment Survey revealed that regional areas, including South Australia, would benefit from more than $7.7 billion of gold industry investment in 2004-05. However, the survey also revealed that gold exploration activity was lagging behind gold industry investment in capital works and operations. Exploration activity still accounts for just 3.3 per cent of total gold investment activity, dwarfed by investment in capital works and operations. If exploration levels stay that low, Australia will be unable to sustain current gold production and investment levels. That is why the government's plan for accelerating exploration is so important.

In an effort to boost gold and other exploration in South Australia, members of the newly appointed South Australian Minerals and Petroleum Expert Group travelled to Perth to host a dinner with leading mining companies. I am advised that the dinner was very successful and that a number of companies are interested in coming to South Australia to explore for both gold and nickel. My department and the expert group will be following up these opportunities in the near future as well as undertaking other projects. Of course, I will keep the council informed of these developments as they occur.

I also point out to the council that Hillgrove has recently produced good drilling results at the Kanmantoo project, where it is exploring with a view to reopening the Kanmantoo mine. The Kanmantoo project is located 55 kilometres south-east of Adelaide in the Mount Lofty Ranges. Significant results recorded to date have included 14 metres at 4.46 per cent copper, 10.96 grams per tonne silver and 0.14 grams per tonne gold, which is a copper equivalent of 4.52 per cent or a gold equivalent of 10.18 grams per tonne over that 14 metre interval. It has also intercepted 10 metres at 2.16 per cent copper, 3.15 grams per tonne silver and 0.1 grams per tonne gold on the KTRCO22. The copper equivalent of that is 2.2 per cent, or a gold equivalent of 4.96 grams per tonne over that 10 metre interval. Another significant result is 14 metres at 1.08 per cent copper, 3 grams per tonne silver and 0.13 grams per tonne gold in KTRCO24, which is a copper equivalent of 1.14 per cent or a gold equivalent of 2.56 grams per tonne over a 14 metre interval.

Havilah Resources has also had very encouraging results in the Curnamona Province at its Kalkaroo prospect. The holes were drilled on four section lines 100 metres apart through the interpreted copper-gold resource envelope and

encountered strong ore grade intercepts on each section line as follows: 39 metres of 0.97 per cent copper and 1.3 grams per tonne gold in KKRCO14; 78 metres of 0.81 per cent copper and 0.77 grams per tonne gold in KKRCO16; 52 metres of 0.8 per cent copper and 0.85 grams per tonne gold and 570 parts per million molybdenum in KKRCO18; and 42 metres of 1.37 per cent copper and 1.66 grams per tonne gold and 166 parts per million molybdenum in KKRCO22. These results are very pleasing. I hope that, as the work initiated as part of the drilling partnerships program gets under way, we will see a flurry of similar positive results from other companies.

SNAKE VENOM

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, questions about snake venom royalties.

Leave granted.

The Hon. SANDRA KANCK: Last year, under freedom of information I sought copies of all submissions to the fauna permit review of 1998-99. Six submissions were made available to me, including three from Mr Peter Mirtschin of Venom Supplies at Tanunda. Mr Mirtschin's submissions argued strongly against royalties being paid on snake venom. Of the remaining three submissions, only one mentioned royalties, but not in relation to snake venom. Mr Mirtschin has informed me that the Department for Environment and Heritage has argued that competition policy was the driver for the decision, and a DEH letter to the Ombudsman states:

> The competition policy review established the context for the fauna permit review and the subsequent recommendations to royalties.

Clearly, the submissions received in that review did not provide any evidence or support for royalties to be imposed on the collection of a snake venom. My questions are:

1. Why did the department advise the Ombudsman that the fauna permit review was the cause of the recommendations for royalties to be imposed when the six submissions which have been provided to me do not support that contention?

2. Does the minister consider that the department and the then minister were misled by this information; if so, does the minister plan to take any action against the public servant concerned?

3. Is it correct that the department is now internally reviewing its royalties policy without public input; if so, will the minister now open up that review so that interested parties might also have input?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am not sure that it is a question for the Minister for Environment and Conservation, but I will refer the question to the appropriate minister and bring back a reply.

KENO

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Treasurer, questions about the SA Lotteries Commission.

Leave granted.

The Hon. NICK XENOPHON: A number of weeks ago in a question on notice I asked for details of the price of Keno tickets sold for a range of figures from $1 to $5, up to amounts of $10 000 to $50 000. This arose out of concerns from the family of a constituent who had a severe gambling problem with Keno and was spending large amounts of money on individual bets. The response I received recently from the Treasurer was that the SA Lotteries Commission is unable to draw the information from its online lottery system in a form that is suitable to address the questions I asked. The written answer states that information is not retained by the online lotteries system to enable such a report to be drawn; that it would require a software program to be developed to extract and collate information for archived daily transaction files; and that to provide the information would require 4 400 recovery processing hours with an estimated time frame of 46 weeks at a cost of approximately $120 000.

The response also stated that the SA Lotteries Commission has made a decision to develop a software program which will enable such information to be accumulated in the future and which will be operational from October 2004. My questions are:

1. Given the Lotteries Commission in the past has had detailed profiling and surveys of its customers, what level of information, surveys and data has been collated by the Lotteries Commission, or on its behalf, in relation to the amount spent on Keno in previous years, with details of amounts spent, particularly larger bets, such as amounts of over $100, $200, $500 and $1 000? What details has the commission had about such larger amounts spent as a proportion of the amount lost on Keno?

2. What measures has the Lotteries Commission implemented to train staff and agents to identify problem gamblers of Keno products? What are the triggers for intervention, and how many cases have been recorded for intervention in the past two years? What are the protocols for keeping records of such interventions in terms of referring these people on or assisting them, if they have an apparent gambling problem? What is the nature and extent of training for such intervention programs?

3. Is the new software system currently in operation? Will the details for which I have previously asked now be provided on a regular basis? Will the Treasurer now provide the details I have previously requested from the time of the inception of the new software program?

4. When did the Lotteries Commission first discuss upgrading its software system to provide such information, and when was such a decision finally made?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Treasurer in another place and bring back a response. I am sure that the council will be pleased to know that, as a result of the honourable member's question, the Lotteries Commission has taken action to improve its reporting procedures.

WATER SUPPLY, GLENDAMBO

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for State/Local Government Relations, a question about Glendambo water.

Leave granted.

The Hon. T.J. STEPHENS: Members will be aware that I have highlighted consistently the water supply crisis in Glendambo. To update the chamber, I have received a letter

from the Minister for State/Local Government Relations in which he informs me that this issue has been raised with the Department of Administrative and Information Services, the Department for Environment and Heritage, the Chairman of the Outback Areas Community Development Trust and the Presiding Member of the Arid Areas Catchment Water Management Board. The letter states that the intra-agency working party will have a paper prepared which aims to develop a coordinated strategy for capital works and water management issues. God help the people of Glendambo and their water! My questions are:

1. Will the minister confirm that this paper has been received by all necessary parties?

2. What is the time line from now until the end of the consideration period and from then until the beginning of implementation?

3. In the meantime, will the government commit to assisting Glendambo with a supply of water, as I understand that the residents are on the verge of having to cart water in?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I recognise that, as he has mentioned, the honourable member has taken up the issue of the water supply to Glendambo over a period of time. I suspect that, should he be able to get all those departments to work cooperatively to achieve the required result, he will also be called upon to run as mayor. I will refer those important questions to the minister in another place and bring back a reply.

ELECTRICITY PRICES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Energy, a question about electricity prices.

Leave granted.

The Hon. J.F. STEFANI: During the last election campaign, in his 'my pledge to you' card the leader of the Labor Party (Hon. Mike Rann) promised South Australians cheaper power. He also encouraged people to keep his card to check that he had kept his pledge. In a recent report commissioned by the Western Region Energy Action Group, 12 low income households were surveyed. The study conducted in-depth interviews with the residents of the households nominated by relief agencies in late 2003. The key findings of the report were heart rending and detailed how the participants of the survey struggled to meet the huge increase in electricity costs, causing some of them to go without food to pay electricity debts. As the Rann Labor government has now been in office for more than 2½ years, my questions are:

1. When will cheaper power be provided to the many South Australians who voted Labor at the last election on the basis of the Premier's promise?

2. Will the minister increase the government's rebate to pensioners and low income households to ensure that future increases in power prices will not drive them into poverty and the risk of illness?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In relation to the last question, I point out that, at the start of this year, this government massively increased the rebate available to pensioners.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I hope that gets on the record, because it comes from a minister and a government that did not increase the electricity rebate during the entire time they were in office.

The Hon. R.D. Lawson: You are wrong.

The Hon. P. HOLLOWAY: Perhaps the honourable member can enlighten us as to when the Liberal government increased the electricity rebate. It was many years ago. I can tell you that there was a massive increase—

Members interjecting:

The Hon. P. HOLLOWAY: He says they have, so let him tell us. When did you increase it? I am not the Minister for Energy, but we can have another little history lesson. Obviously, we need more of them in relation to what the previous government did. Certainly, this government has massively increased the rebates for pensioners and seniors.

In relation to electricity prices, we all know that crunch time came when full retail contestability was introduced on 1 January 2003. Of course, that period was locked in by the Leader of the Opposition (the former minister). He locked in full retail contestability. Since this government has been in power, those of us who are members of the electricity select committee would be well aware that the evidence is slowly coming in that, from the high peak following the introduction of full retail contestability (which was locked in a number of years ago now by the previous government when it sold ETSA), competition is starting to have an impact in relation to electricity rates. That is the evidence that those of us on the select committee would be well aware of, including the Leader of the Opposition.

The Hon. R.I. Lucas: You have done nothing. That's what we set up.

The Hon. P. HOLLOWAY: It is not the case that we have done nothing because, apart from the massive increase in rebates, this government has taken a number of steps which I am sure the Minister for Energy would be pleased to outline, and I will refer that part of the question to him in relation to the steps that this government has taken. But, certainly, the evidence is that, at last, there is some relief coming for electricity consumers as a result of the actions of this government.

HOMELESSNESS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Adelaide city homeless.

Leave granted.

The Hon. J. GAZZOLA: As honourable members would be aware, the issue of the Adelaide city homeless has been a concern for a considerable number of years. While all homeless people suffer from the circumstances that they endure, a large percentage of the city's homeless are Aboriginal people. Will the minister report to the chamber on initiatives of the government to address this problem?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his interest. The government has a new three year inner city services strategic plan which is designed to significantly improve services for the homeless in the city of Adelaide. Given that our inner city has around 700 homeless people at any one time and ABS census figures show that the rate of homelessness in the inner city of Adelaide is 10 times higher than that of South Australia as a whole, this is a positive initiative. Many homeless people in the inner city have complex multiple and long-term needs and

experience extreme disadvantage. Isolation and poor health are but two of the problems they experience.

The honourable member is correct when referring to the proportion of homeless Aboriginal people in the city, as they face all of these issues and more. It is also vital that we help them gain access to high quality and well-coordinated services. Aboriginal people often fall through the gaps in service provisioning, and I am pleased to report to the chamber that the inner city services strategic plan will improve the coordination of services and reduce the chance of homeless people falling through the gaps between service providers. An increase of accommodation options for homeless people will ensure that the accommodation meets their needs while giving them a chance to have an input into the types of services that will be provided. We will also provide $172 000 for the recruitment of two Aboriginal community constables to work with the indigenous community in the inner city.

I recently visited a non profit organisation and saw the assistance that they are providing to the homeless in, I think, Wright Street. I pay my respects to the people working there as NGOs and volunteers within that service because they are doing a great job with limited resources and they have had very good results. Dr Lowitja O'Donohue visited with me and we spoke to the organisers of that program, and they are doing a very good job under difficult circumstances.

The Aboriginal community constables will engage and assist Aboriginal people in the inner city, particularly in relation to issues around alcohol and drug use. The new plan aims to: improve drug and alcohol assessment services, mental health services and other health services associated with some of the problems which many of the people have; increase accommodation options and services for women; increase access to services by indigenous people; improve case management, referrals and assessment services, linkages between services, work force development and supports; and also improve the planning for the discharge of homeless people from hospitals, mental health services and correctional services.

Those things are part of the plan for Adelaide city homeless and those people living in the inner city who are caught without means either temporarily or medium to long term. The proposals that I have outlined are and have been examined at length within the government service providers, and we are trying to link with non-profit organisations to try to maximise the returns that we can get out of the difficulties that these people have.

If you speak to the health service providers within the inner city supplying the emergency health programs, many of them are dealing with issues on a daily basis. I think that members should examine those issues and also pay their respects and tributes to the people who are working with the people who obviously need help and services. There may be cries for extra funding, but let us see what we can do with the results short term. There has to be a beginning. This is it, and hopefully the returns that we get do assist those people who are living rough (as described), and that we are able to turn their lives around so that they make a meaningful contribution to the broader society.

GENETICALLY MODIFIED CROPS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Agriculture, Food and Fisheries, a question about the legal liability of genetically modified crops.

Leave granted.

The Hon. IAN GILFILLAN: Prior to the commercial release of genetically modified canola, the Office of Gene Technology issued certificates guaranteeing the GM free status of export grain. These certificates had given Australian farmers a strong degree of legal protection had their crops been contaminated with GMOs through no fault of their own. The commonwealth Department of Agriculture, Fisheries and Forestry published The Biotechnology Strategy for Agriculture, Food and Fibre in 2003. It states:

> If an importing country requires certification of the GM status of a product or commodity, where appropriate, AQIS will attach to the export a statement from the OGTR regarding the approval status of the GM commodity.
>
> Once GM crops are released into the commercial environment, AQIS may no longer be able to include an accompanying statement from the OGTR with its certificate.

I remind members that we now have in South Australia commercial release into the environment of GM crops. In the absence of the guarantee issued by the Office of the Gene Technology Regulator, any assurance of the GM status of any given crop is borne by the individual growers.

The network of concerned farmers has an example of what is occurring on their web site. The current carters delivery form of the Western Australian storage and handling company Cooperative Bulk Handlers (CBH) is typical of what to expect. The forms states:

> 1. Growers declaration:
>
> I/We hereby represent and warrant that:. . .
>
> (d) the grain does not include any genetically modified grain;. . .
>
> 2. Growers indemnity:
>
> I/We. . .
>
> (a) to indemnify and keep indemnified CBH indemnified against:. . .
>
> (ii) all actions, claims and demands which may be made or instituted against CBH,
>
> Arising howsoever out of or as a consequence of any of the representations or warranties contained in this form being false, misleading or deceptive;

However, according to another paper by the commonwealth Department of Agriculture, Fisheries and Forestry entitled 'Liability issues associated with GM crops in Australia' it says:

> The Australian Competition and Consumer Commission has indicated that GM free crops must not contain any trace of GMOs whatsoever. A GM free claim leaves no room for ambiguity. Such a claim is absolute and indicates that the product does not contain novel DNA and/or novel protein of any percentage. To avoid liability for misleading or deceptive conduct or under Sale of Goods legislation, the manufacturers and retailers should exercise caution to ensure that any voluntary claims are accurate.

In conversation with Ms Judy Newman of the Network of Concerned Farmers, she said:

> The Network of Concerned Farmers have been trying to get liability issues addressed for years. Their first preference is a strict liability regime.

I do not have to remind this chamber that we, the Democrats, have been pushing the same line.

The issues of liability relating to genetically modified crops are complex and there is strong concern in the farming community that the government has simply wiped its hand of the matter. Since the passing of the Genetically Modified Crops Management Bill 2004, and the establishment of a statewide GM free zone earlier this year, the government has done nothing further to address the complex issues of liability in regard to genetically modified crops. However, the minister on 29 April this year granted a wide exemption to

BayerCrop Science to grow their genetically modified canola anywhere in this state, except Eyre Peninsula and Kangaroo Island. These genetically modified crops are in the ground in the South-East and they are at this very moment flowering.

There is a letter in the *Stock Journal*, for those members who get it, from a contributor saying:

> Bayer should accept legal liability for GM. Why is GM promoter Bayer, whose business is to sell chemicals for crops, foods and animals, not willing to take liability for neighbourhood and community contamination by GM canola? Just ask them, but they will not give a direct answer.

My questions are:

1. Since the minister, with apparently the mute consent of the opposition, has granted exemptions to grow GM crops in South Australia, does he agree that the farmer should have the right to produce a GM free product?

2. Does he agree that GM means, as indicated by the ACCC, that a crop would have to contain no trace of GMOs whatsoever?

3. Does he agree that in a system of coexistence it would be impossible to guarantee any crop as being completely GM free?

4. Does he agree that it was irresponsible to authorise the commercial release of genetically modified canola in this state prior to the establishment of a strict liability regime?

5. Finally, if he is confident that there can be no GM contamination from the exemptions he has granted under the Genetically Modified Crops Management Act 2004, will he and the government indemnify farmers growing non-GM crops in this state against any damages arising from contamination of their crops and, if not, why not?

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

The Hon. NICK XENOPHON: By way of supplementary question, what resources or assistance will the minister's department provide to farmers who are concerned that their non-GM crops are contaminated with GMOs? For instance, will the department meet the cost of testing for contamination?

The Hon. T.G. ROBERTS: I will pass that question on to the minister in another place and bring back a reply.

The Hon. J.F. STEFANI: Will the minister provide assistance to the neighbouring farmers who may be concerned about their crops and the possible contamination of their crops in that area?

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

MOUNT GAMBIER PRISON

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Correctional Services a question about Mount Gambier prison.

Leave granted.

The Hon. A.J. REDFORD: At page 736 of the Auditor-General's Report the following notation appears under the heading 'Management of Mount Gambier prison':

> This contract expires on 26 June 2005. A new contract had not been negotiated as at 30 June 2004 as the department is seeking policy direction from the government.

Obviously, any process of renewing Group 4's contract or the replacement of Group 4 by another contractor or, indeed, the resumption of management of the Mount Gambier prison by the Department of Correctional Services will need to commence shortly if there is to be a smooth transition following the expiration of the current contract. My questions are:

1. What is the current policy of this government regarding private management of our prisons?

2. When will the government publicly announce its policy direction?

3. What probity model will be used in dealing with this process?

4. Which minister will be responsible for any new contract and the process leading up to that contract?

5. Which department will administer the process?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The honourable member is well informed; the contract does need to be renegotiated. The time frames are set in relation to the notice to be given. At the moment the department has started to—

An honourable member interjecting:

The Hon. T.G. ROBERTS: No, it has started. There are recommendations for notice to be given in relation to the lead-up to the negotiations for the recontracting of services, or whatever the government's decision is in relation to dealing with it—whether that is a tendering process or a renegotiation of the original contract. We are moving into that time frame now, and the Department for Correctional Services will soon commence discussions with GSL Custodial Services Pty Ltd, formerly Group 4, to renegotiate the contract for the operation of the Mount Gambier prison.

This is not a new privatisation: it is simply an intention to renegotiate an existing contract. We have said we will not enter into any new privatisations and we will not: this is renegotiating an existing privatisation. In the past, where it has been impractical to undo previous Liberal privatisations, this government has renegotiated such contracts. In this case it would be impractical to unscramble the egg. The upfront costs of transferring it to the public would be increased, and there would be the difficulty of staff recruitment (although those issues can be worked through). Transferring a complex operation such as the prison would present the government with a lot of difficulties in this particular time frame. We are in the middle of doing a total assessment of our prison needs and requirements—we are looking at the needs of a whole range of new services that will be required into the future, including mental health, how we deal with drug and alcohol addicted prisoners, and how we can keep young people out of prisons with alternative strategies.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, it is. There is complete relevance. The recontracting of the services to the Mount Gambier prison has come at a time when we have allocated $700 000 to look at our whole prison services for the future. That is a commitment we have given and that we are starting to carry out. Our negotiating team has commenced discussions with the PSA, and the issues of recruitment and training, etc., will be dealt with in a mature way.

On the separate issue of the Mount Gambier prison, which the honourable member's question was about, those discussions will start shortly. They will be carried out by a negotiating team who will be dealing with the contract services, and notification and discussions will be starting as soon as practicable.

We will have an outcome within the time frames that are required by the contract. The situation of the reissuing of the private contract has been the subject of discussion with the PSA. Obviously, the PSA would prefer that it be put back to it, I guess, for negotiating a tender contract, but the government has made the decision that it will be kept as a publicly managed private operation—in part public—the same as it is now. Probity will be a part of the government—

The Hon. A.J. Redford: What probity model, was the question. Do you have models for different outsourcing, and which ones are you going to use?

The Hon. T.G. ROBERTS: The point I made earlier is that we are starting to look at those questions in relation to the discussions that are about to proceed.

The Hon. A.J. REDFORD: Sir, I have a supplementary question. Is the minister refusing to answer my questions, which were to the effect of which minister will be responsible for any new contract in the process and which department will be responsible for this process?

The Hon. T.G. ROBERTS: Cabinet has made the decision for negotiations to commence. I have indicated that negotiations will commence shortly. In answer to the issues that the honourable member raised regarding probity and which department will be responsible, it will be done in conjunction with Corrections. Corrections will not be the department carrying the full load and responsibility of renegotiating contracts. There will be crown law advice, there will be—

The Hon. A.J. Redford: That was not the question.The question was: which department; who is accountable?

The Hon. T.G. ROBERTS: When we reach the position of—

The Hon. A.J. Redford: You don't even know who is going to be accountable.

The Hon. T.G. ROBERTS: There are stages that negotiations go through. The first stage is indicating publicly what are our intentions. The private contractors who already have the contract at the Mount Gambier prison have been notified, or will be notified very soon. The way in which the negotiations will be conducted will be determined by the process by which we agree to proceed. I have said that it is a staged process. We have indicated our intention, and negotiations, through a minister or multiple ministers, will take place. Questions around probity will be answered when the final determination on how the negotiations will be structured unfolds.

The Hon. A.J. REDFORD: Sir, I have a further supplementary question. Given the minister's answer that he cannot unscramble the egg, does that mean that GSL Pty Ltd has an inside running in relation to the management of the prison following the expiration of this contract? If so, has that been subjected to Auditor-General and probity considerations?

The Hon. T.G. ROBERTS: All options will be considered when renegotiating the contract and, of course—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: —if a company has a contract and is in situ and it is seen that it has responsibly carried out its duties in relation to the government's goals, certainly one will not tip out a company which has acted responsibly and which has achieved good results on behalf of what are the government's aims and achievements. Normally, you would—

The Hon. A.J. Redford: They have a right of renewal; do you know that?

The Hon. T.G. ROBERTS: The issues associated with the renewal of the contract will be openly discussed with GSL, and we all know that contracts are negotiated in an open and transparent manner. It all will unfold amongst the stakeholders. I will not make any public declarations until those negotiations commence.

The Hon. NICK XENOPHON: I have a supplementary question. What advice has the minister received about the likely costs involved if the management of the prison is transferred back to the public sector?

The Hon. T.G. ROBERTS: There will be an added cost.

The Hon. Nick Xenophon: How much?

The Hon. T.G. ROBERTS: I have not been given definite figures in relation to the increased costs, but I can say there will be an increased cost per prisoner if the prison is returned to full public management. There are reasons for that. We cannot compare prisons, apple for apple. The types of prisoners in each prison are different. They need different custodial services and they have different needs and requirements. Certainly, country prisons are more expensive to run than city-based prisons, if you aggregate numbers. Smaller prisons do cost more per prisoner.

The plan is to have a major examination of all our prison needs and requirements, including the prison services that are required, and all these issues will be discussed with the PSA. We will not be making any major announcements away from the table until we indicate—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I did not say that. I think the honourable member should read *Hansard*. I said that the Department for Correctional Services will soon commence discussions with GSL Custodial Services. If the agreed contract price meets the government's needs and requirements, then certainly there is a major chance that the contract will be renewed. If the contract price is outside the government's expectations, I am sure the negotiating committee would look at alternatives. That is not within my parameters. I can rule myself out of being one of the lead negotiators in relation to sitting around the table to work out that detail.

The Hon. A.J. Redford: You don't know.

The Hon. T.G. ROBERTS: Well, I do not know because I am not sitting around the table. I do know that the information I have put before this council at this stage is adequate. When there are more answers, I will provide them to the honourable member without compromising the government's position in relation to negotiations and, given that commercial confidentiality has to be protected, I will be very circumspect about answering those sorts of broad questions. They will be in the province—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, when the government makes the decision about who will be responsible, the honourable member will be the first to find out.

REPLIES TO QUESTIONS

HIROTEC

In reply to **Hon. J.S.L. DAWKINS** (14 September).

The Hon. P. HOLLOWAY: Further to my answer of 14 September, the following additional information is provided for the member.

Land allotments at Edinburgh Parks are flexible. Hirotec had the option of selecting a number of sites and of having these reconfigured as one large site. Other suppliers who have located in the Automotive Precinct have taken up this option.

At the request of Holden, the South Australian Government is making every effort to ensure that first tier suppliers to Holden locate in Edinburgh Parks. Edinburgh Parks, an initiative of the former Government, has and will continue to be strongly supported by the Government.

EXPORTS

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

The Hon. P. HOLLOWAY: Regarding the Opposition Leader's question on export figures, I undertook to provide him with further details on trends over the last quarter of that 12 month period. I wish to advise the Leader that, in fact, over the last six months of that year (January to June 2004) exports have risen by 2.8 percent compared to the same period a year earlier.

SAMAG MAGNESIUM PROJECT

In reply to **Hon. R.I. LUCAS** (27 November 2003).

The Hon. P. HOLLOWAY:

1. A letter dated 30 September 2003 was sent by the Chairman of Magnesium International Limited to the Premier. It was the subject of discussion in parliament on 27 November 2003. It sought clarification of the Government's attitude towards infrastructure support for a power station at the SAMAG site near Port Pirie.

In relation to the question asked by the Honourable member, the letter does not contain anything that Mr Galt has not spoken about publicly.

As the previous Minister for Industry, Trade and Regional Development said on that occasion, the letter has been answered, and the government is not prepared to support a power station other than as part of the broad infrastructure support for the smelter.

2. There is no evidence available to the Government that would suggest the decision to undertake the review contributed to the under subscription. The review was standard prudent business practice. As the member largely responsible for the disastrous privatisation of ETSA and high power prices, it comes as no great surprise that the Hon Rob Lucas MLC questions prudent business practice.

3. There has been no suppression of answers to the questions asked by honourable members.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 October. Page 264.)

The Hon. CARMEL ZOLLO: I welcome this legislation, which will see further restrictions on smoking in public places. Other states have followed our lead and are now enacting similar legislation. The government promised to introduce this measure during the election campaign: it has now delivered. Since last year, very extensive consultation has taken place with all interested parties and the industry affected. This has enabled the pub and club industry to prepare itself for this change, and it is ready to go.

The first phase of the smoking restrictions will see smoking banned within one metre of all service areas, including front bars and casino gaming tables, and the requirement for one bar in all multi-bar venues to be non-smoking, and in single bar venues at least 50 per cent of the floor area is to be non-smoking. Half of all bar areas at the Adelaide casino are to be non-smoking. For gaming rooms, 25 per cent of the gaming floor area which contains at least 25 per cent of the gaming machines is to be non-smoking. This will increase to 50 per cent in October 2005. Many people believe that having to leave a gaming machine for a cigarette provides the necessary circuit-breaker for those who are problem gamblers, so many in our society welcome this particular incremental restriction. A complete ban on smoking in pubs, clubs, gaming rooms and the casino will come into effect from 31 October 2007, in line with the timetable agreed by industry and health groups last year.

Recognising that restrictions of this type cannot be fully successful without the necessary community education and understanding of the issues being addressed, the introduction of these measures will be accompanied by funding of more than $2.3 million for a public education campaign, a business consultancy service for licensed country hotels and clubs to assist them in adapting to the new legislation, and the enforcement and monitoring of compliance. The bill also seeks an immediate ban on smoking in all other enclosed workplaces and public areas, including shopping centres, and seeks to remove current exemptions for smoke-free dining.

The legislation will also deal with immediate and further restrictions on advertising of tobacco products, as well as, for the first time, making employers liable if their employees sell cigarettes to children. I am certain that we all know that the best way to hook a smoker for life is to introduce the substance of addiction at a young age. Given the logic of the benefits of not smoking, I would never encourage any smoker to continue with their habit, but, on a personal level, it does not particularly worry me if I am in the company of adults who smoke. As a non-smoker, the issue for me (and I assume for others as well) is that I can choose to be in the company of a smoker, rather than have a smoke-filled environment imposed on me. Given the addictive nature of the substance, I admire those who choose to and succeed in giving up the habit. I have watched a few in my family go through this process. My husband smoked for some 34 years, and it was tough giving up—for both of us!

I am pleased to see that, before legislating, the Minister for Health in the other place is trying to achieve a measure of national consistency in regulating the point of sale display of tobacco products. She has pointed out that at the moment there is no consistency in state laws in relation to the display of tobacco products and the look of and the messages on cigarette packs and that most states are currently grappling with what restrictions they want to put in place and how to achieve them. The minister's initiative to put national consistency of tobacco product display laws on pending ministerial council agendas will no doubt be very welcomed by the other jurisdictions.

As could be expected, national retailers have expressed a strong desire to achieve national consistency on tobacco product display and, really, this is just common sense and fits in with other national advertising restrictions which have been in place now for many years. Product display restrictions in South Australia were not due to come into effect until 31 March 2005. While this time frame will now be delayed while national discussions occur, the government is of the view that it is worth taking the extra time required to get it right. It is important that we have national consensus on this issue, similar to the banning of tobacco advertising in the media. We cannot all move in different directions and at a different pace when it comes to advertising.

There would not be very many of us in this place who have not travelled overseas. As a nation, we have reason to be proud of our awareness of the health problems associated

with smoking and the fact that we are leaders in the restriction of smoking in workplaces and venues that impact on other people. South Australia has led the nation with its initiatives. The minister has rightly stated that this legislation contains the most comprehensive package of measures to reduce the rate of smoking in South Australia that we have ever seen. What we have before us is a total package to stop the recruitment of young people to smoking, to help people who are quitting from relapsing (in particular, in social settings such as the pub), and to protect workers and other non-smokers in those venues.

I have had inquiries and lobbying in the past few years which have sought to clarify the government's intention with this legislation. Obviously, different parties put forward their own views, but the common theme was the need for the government to introduce legislation and to act to protect our young people and those who are not and should not be exposed to cigarette smoke. The government believes that, through this phased-in approach and through funding for a business consultancy service, it is giving business time to adjust and to help ensure the financial viability of pubs and clubs and, therefore, protecting jobs. The underlying theme of this legislation before us is consultation with the industry and health groups to see a fair and balanced outcome which we can all live with, and I welcome its passage.

The Hon. J.M.A. LENSINK: I indicate that, first and foremost, this bill is a conscience vote for all Liberal Party members. Therefore, some of the views I express may be purely my own. I am aware that a number of Liberal Party members will be speaking, and that we may also be proposing amendments to the bill. However, I am the lead speaker for the Liberal Party on the bill in this chamber.

Smoking has had a long history of reform throughout the world, and I mention the following facts as a brief reminder. In 1954 the *British Medical Journal* published a paper which confirmed the link between smoking and lung cancer. In 1962 the AMA called for restrictions on tobacco advertising. In 1972 the commonwealth forced tobacco companies to print warnings on cigarette packets. In 1973 to 1976 we had advertising on TV and radio phased out. In 1983 the Tobacco Institute of Australia placed a newspaper advertisement stating that there was no proof of causation of even one single death from cigarette smoking, which is quite extraordinary.

In 1986 in South Australia the Tobacco Products Control Act was passed which restricted advertising and sale. In 1986 we saw smoking banned on domestic flights. In 1988 there was a ban on smoking in Australian Public Service offices. In 1989 Living Health sponsorship replaced tobacco advertising. In 1994 there was an advertising ban on billboards. In 1999, 74 per cent of Australian workplaces had a total smoking ban, and in 2000 we had smoke-free dining in South Australia. So, it has taken quite some time from the initial evidence of the dangers of smoking for changes to take place that recognise how poisonous this practice is.

My one small confession to the chamber is that in my early 20s I was somewhat of a social smoker, but I am glad that I did not take it up any earlier because, as we have heard from members here and in the other place, it is very difficult. In my former life as a physio, I worked at the repatriation hospital. A number of veterans had taken up smoking in the trenches. They were actually given cigarettes to keep them occupied. The vision of bilateral amputees or people with tracheostomies having a smoke outside through their 'trachy' hole is one that will forever remain in my mind.

Some comparisons have been made between obesity and smoking. We currently have an epidemic in that area and we recognise that we need to make some changes to counteract that. Of course, we know that smoking one cigarette does you damage, but dealing with obesity and people's food consumption is more difficult. However, I note that smoking has become less fashionable and more antisocial over time.

Mr John Menadue, who has been driving the generational health reform, has stated that the biggest contribution that can be made towards improving the health of Australians is to curb tobacco smoking and obesity. He was cited in *The Advertiser* as recently as 4 September 2004. That has been recognised at the highest levels of the government's independent advice which has been driving the reform of the health system.

A number of measures are to be commended. I will try to skip over those as briefly as possible, but I think they are worth mentioning. A smoking ban will apply to all enclosed workplaces and public areas, except hospitality; there will be bans on toy cigarettes and herbal cigarettes; smoking is to be prescribed within licensed hospitality venues; one bar in multi-bar venues is to be non-smoking; and for single-bar venues, 50 per cent of the floor area is to be non-smoking. I do not find some of the prescribing provisions satisfactory, having once been a passenger on a train to Melbourne and being seated in a so-called non-smoking carriage which was not fully enclosed but which had a door frame through which smoke passed to and fro.

The real changes will not take place until October 2007. From my own personal view, and in light of the evidence, I find the delay in a complete smoking ban completely unacceptable. In the first phase, any further exemptions for smoke-free dining will be removed and a number of issues concerning advertising and so forth and measures to cover sales to children will be dealt with; and then by 31 October 2007, under this current regime, all smoking in enclosed public areas will be banned. As stated by the previous speaker, it is important that the focus is on young people.

In her speech in the House of Assembly on 21 July 2004, the minister stated that the bill has three objectives: first, the prevention of uptake by minors; secondly, the prevention of relapse by those wanting to give up; and, thirdly, the protection of workers. National Youth Tobacco Free Day was held on 29 March, and an article published in *The Advertiser* produced some very alarming statistics on this public health matter. It stated that some 43 000 Australian children (the definition of that being children between 12 and 17) moved from experimenting with smoking to becoming regular smokers—and that has been estimated to translate to some 3 500 young people in South Australia. As a result of those 43 000 Australian children becoming regular smokers, 10 000 will die prematurely.

We know that nicotine is highly addictive and, on average, it takes 100 cigarettes to become dependent. Eight out of 10 adult smokers want to quit—I am sure that they all wish that they had never started in the first place. The minister in this place in his second reading explanation also cited some statistics which one would think would urge a speeding up of this important process. He said that 31 per cent of restaurant and bar workers in South Australia are exposed to passive smoking at work; 70 New South Wales bar workers die prematurely because of tobacco smoke at work; 30 South Australians die each week from smoking related diseases; smoking is responsible for 75 000 hospital bed days per year in South Australia; and 36 per cent of South Australians

report that they have been exposed to passive smoking in a hotel or bar in the past two weeks.

As to the timing and process of this bill, it follows the work of the previous government, which brought in smoke free dining. I was working in Robert Lawson's office when this was occurring and saw the people involved meeting with minister Brown, who had established the Tobacco Advisory Council, chaired by Diana Hill. That body had already consulted extensively on a plan to announce changes in 2002. So this has had a long gestation.

The council was abolished by the new minister and replaced with a hospitality smoke free task force that reported in 2003. As reported by Greg Kelton in *The Advertiser* of 13 April this year, differences in opinion between the then Department of Human Services and Treasury, the latter perhaps being concerned about the loss of gambling revenue rather than loss of life, caused a delay in this legislation coming to the parliament. In her press release on Tuesday of this week, the minister announced that new restrictions on smoking will begin within weeks if the Rann government's tobacco control legislation is passed by the state's upper house this week. Some amendments were produced on Tuesday, so I hardly think that this chamber is to blame for the delay. This matter has been in gestation since 2002, delayed until its introduction this year by barneys between different ministers, so we are now debating it at the best pace we can, but we will not be responsible if it takes longer than some might like.

Undertakings were also given by the minister during debate in the House of Assembly on Tuesday—the amendments to which I referred—in regard to display advertising. There was no consultation with the opposition over the break as was promised. We received it on Tuesday and in my view the response has been a lose/lose in that there is uncertainty for industry and in the meantime, until the new legislation is brought forward, South Australia will have absolutely no restrictions on tobacco advertising whatsoever.

In the Auditor-General's Report an issue was raised that there will be a 15 per cent fall in gaming machine expenditure in licensed clubs, hotels and the casino, commencing in 2007-08 when the smoking ban takes full effect. The assumed tax revenue loss is $41 million in 2007-08. Clearly the Treasurer has been placing gaming revenue ahead of people's health. Furthermore, I take issue with the joint press release in which ministers Foley and Stevens made the following statement on 27 November 2003 (and these claims have been made a number of times in the past 12 months):

> The Rann government today unveiled the most significant package of smoking reforms in Australia and makes South Australia the first state in the nation to lock in dates to totally ban smoking in all enclosed workplaces and public areas and in pubs and clubs.

If that is not a piece of spin, I do not know what is. Locking in dates is not changing anything as we are talking about three years hence. I have a lovely press release by SmokeFree Australia, which is a coalition comprising the following (and members opposite might want to take note as some are probably good friends of theirs): Liquor, Hospitality and Miscellaneous Workers' Union; Musicians' Union of Australia; Media, Entertainment and Arts Alliance; Australian Council of Trade Unions; Action on Smoking and Health Australia; The Cancer Council Australia; National Heart Foundation; Australian Council on Smoking and Health; Non-Smokers' Movement of Australia; and the AMA. (I understand that they are not quite so good to them and like to give them a bit of a kick every now and again when they do not approve their federal health policies, but I digress.)

I would like to quote from a press release dated 12 October 2004 in which this alliance is highly critical of New South Wales and Victoria. It is headed 'NSW and Victoria announce smokefree pubs and clubs but delayed until 2007', and the subheading reads 'Three-year wait will cause more injuries and claims'. I would like to point out to the council that New South Wales and Victoria, which have just made announcements, are listed for coming into effect for full bans by July 2007—some three months ahead of South Australia. So, we have effectively gone, through smoke-free dining, from the top of the class to getting the dunce's cap.

The Hon. G.E. Gago: We look forward to your amendment.

The Hon. J.M.A. LENSINK: I am sure you do. I will bring one and I will be interested to see whether you, as a health professional, support it.

The Hon. Caroline Schaefer: The problem is she will not be allowed.

The Hon. J.M.A. LENSINK: That is right—the honourable member will not be allowed to do what her conscience might tell her. I quote from this press release:

> Tasmania will have total indoor bans in place by January 2006, Queensland by mid-2006 and the ACT by end-2006. . . The consequences of three more years' delay will be many more deaths and illnesses of bar workers from secondhand smoke exposure in their workplaces.

So, once again we have the South Australian Labor Party not siding with workers. The press release goes on:

> Research shows partial bans are ineffective, which is why total bans have been introduced earlier by other states.

For the record, I would like to state that this delay is too long. I believe that the government has dropped the bundle on this, and any claims that it might try to make that South Australia is a leader in this area are false. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ABORIGINAL AFFAIRS AND RECONCILIATION DEPARTMENT

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a copy of a ministerial statement relating to the Department of Aboriginal Affairs and Reconciliation change in administrative arrangements made earlier today in another place by the Premier.

CRIMINAL LAW CONSOLIDATION (ABOLITION OF THE DRUNK'S DEFENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 September. Page 87.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I would now like to conclude the remarks that I began last time we discussed this bill. On that occasion I addressed some comments that were made by the Hon. Ian Gilfillan, but I did not have the opportunity to respond to the remarks made by the Hon. Robert Lawson. I now seek to do so.

A great deal of the Hon. Mr Lawson's contribution traversed the history of reform efforts in this area in this state, and I do not think there is much to be gained in rehashing

them. A great deal of his contribution also consisted of placing on the record the views of the Law Society about this bill and the general subject. In so doing, the honourable member corrected some of the hyperbole of that submission, and I am grateful for him doing so. I make only one remark about that submission.

Complaint is made that the Law Society was consulted only after the bill had been introduced. I do not accept that complaint. It is very common, indeed, for consultation outside government to take place after a bill has been introduced. It has been regular practice under governments, both Labor and Liberal. It should be noted that comments were invited in February this year, and the bill was the subject of debate in parliament months later. There can be absolutely no question of the Law Society's (or anyone else, for that matter) being given inadequate time in which to comment on the bill.

The Law Society has asked why the government did not adopt section 7(1) of the Northern Territory Criminal Code. That section provides:

> (1) In all cases where intoxication may be regarded for the purposes of determining whether a person is guilty or not guilty of an offence—
>
> (a) it shall be presumed that, until the contrary is proved, the intoxication was voluntary; and
>
> (b) unless the intoxication was involuntary, it shall be presumed evidentially that the accused person foresaw the natural and probable consequences of his conduct.

The essence of the provision lies in the words 'it shall be presumed evidentially that the accused person foresaw the natural and probable consequences of his conduct'.

This kind of presumption has a long history. It probably existed generally in English common law for some considerable time, but it received famous judicial imprimatur in the decision of the House of Lords in DPP v Smith [1961] AC 290. That decision and the presumption were greeted with a storm of protest. The relevant references can be found in Howard, *Australian Criminal Law* (Second Edition, 1970) at page 48 note 96. Not only was the High Court moved to state that it was not the common law in Australia in Parker v The Queen (1963) 111 Commonwealth Law Reports 610, but in that same case the High Court for the first time eroded the precedential value in Australia of the House of Lords decision. English lower courts tried to ignore Smith (see Buxton, 'The Retreat from Smith' [1966] Criminal Law Review 195) and, eventually, the UK parliament abolished it by statute in the Criminal Justice Act 1967. In short, such a presumption is completely discredited. That is why that option was not chosen.

The honourable member has asked whether the result in Gigney would have been the same if this legislation had been in force when the events that formed the basis for the charge occurred. The Gigney case is not reported. As I understand it, Gigney was charged with escaping lawful custody. That offence is contained in section 254(1) of the Criminal Law Consolidation Act which provides:

> Subject to this section, a person subject to lawful detention who—
>
> (a) escapes, or attempts to escape, from custody; or
>
> (b) remains unlawfully at large
>
> is guilty of an offence.
>
> Penalty: imprisonment for seven years.

The relevant elements of this offence are (a) a person subject to legal custody and (b) escapes from custody. As I understand it, Lunn DCJ decided that Gigney was too drunk to know that he had escaped. Under this legislation that cannot be an answer to the charge. Escaping is conduct. The amendment adding section 268(2) provides:

> If the objective elements of an alleged offence are established against a defendant but the defendant's consciousness was (or may have been) impaired by self-induced intoxication to the point of criminal irresponsibility at the time of the alleged offence, the defendant is nevertheless to be convicted of the offence if the defendant would, if his or her conduct had been voluntary and intended, have been guilty of the offence.

New section 268(3) goes on to deal with cases in which it is necessary to prove foresight of some result to establish guilt for the offence in question. The escape offence is not such an offence. Therefore, the exception does not apply. The basic principle applies and Gigney cannot say that he was too intoxicated to perform the conduct, that is, to escape.

Much has been made, and will no doubt be made again, about the short title of the bill. I will say only this: it reflects the election policy of the government. That policy was clearly expressed as follows:

> No more drunks' defence. Being drunk or high on drugs shouldn't be an excuse for committing crime. Too many offenders get off because they claim they were drunk or high on drugs when they committed the crime. Getting drunk and assaulting people and getting off because you were drunk doesn't make sense. Not only is the law unfair to victims, it is inconsistent. It doesn't hold in drink driving cases where the law specifically forbids the excuse. Labor will remove the drunks' defence, the excuse of self-induced intoxication, from the law altogether.

The Hon. Mr Lawson has consistently opposed the introduction of criminal negligence into the criminal law, even though it has been the mainstay of manslaughter and causing death or grievous bodily harm by dangerous driving for decades. The government does not share this view. The government does not understand the honourable member's aversion at all. The use of criminal negligence as a standard criminal liability, albeit one of lesser criminality than liability to advertent fault, is well recognised across analogous jurisdictions, including every other jurisdiction except South Australia. The facts have been set out in responding to the Aggravated Offences Bill and it is unnecessary to repeat them here.

The honourable member repeated the assertion of the Law Society that the Model Criminal Code Officers Committee recommended the retention of the O'Connor position in 1992. Quite right; so it did. What is not mentioned is that the Standing Committee of Attorneys-General refused to accept that recommendation and directed the committee to devise a position based on the old common law that existed before O'Connor. The committee did so, and that is now contained in the commonwealth Criminal Code. It is that position that this bill seeks to emulate. I commend the bill to the council.

Bill read a second time.

ADJOURNMENT

At 4 p.m. the council adjourned until Monday 25 October at 2.15 p.m.