LEGISLATIVE COUNCIL

Tuesday 5 April 2005

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

POPE JOHN PAUL II, DEATH

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That the Legislative Council expresses its sincere regret at the passing of the Pontiff, His Holiness Pope John Paul II, and gives thanks and acknowledges his life and his many good works; further, that we acknowledge his courage and the love and compassion that he displayed for all humankind and, as a mark of respect to his memory, the sitting of the council be suspended until the ringing of the bells.

His Holiness Pope John Paul II, who passed away early on Sunday morning our time, will be remembered as a man of immeasurable courage and influence. He was born Karol Josef Wojtyla in Poland in 1920. He began studying clandestinely for the priesthood in 1942, while his country was under Nazi occupation. He was ordained a priest in 1946, made Archbishop of Krakow in 1964 and a cardinal in 1967. In 1978, he became the first non-Italian to be elected Pope in 455 years. During his 26 year reign, he demonstrated enormous energy. He conducted more than 100 pastoral visits outside of Italy, published five books, made 38 official visits and held more than 700 audiences and meetings with heads of state.

Many members will remember the Pope's historic visit to Adelaide in 1986. That was in fact his second visit to South Australia. In 1973, he came here to bless and open the new Copernicus Hall at the Polish Community Centre in Athol Park. In characteristic style, the visit of His Holiness in 1986 was extremely busy. After arriving at Adelaide Airport on the evening of Saturday 29 November, he departed for the city. He travelled the eight kilometre route in his popemobile, and his path was lit by thousands of well-wishers holding candles. Once in the city, he was met by the then lord mayor, Jim Jarvis, and spoke to a large crowd from the balcony of Adelaide Town Hall. The following morning, he met members of the state's rural community at the Festival Centre, and then he arrived for mass at Victoria Park Racecourse. There he was greeted by tens of thousands of South Australians, as well as by a performance of *Fanfare for the Common Man*.

The racecourse was a sea of people, and the Pope projected great vitality, humanity and strength of mission. That mass was one of the largest gatherings to occur in South Australia in recent times, and all those involved will remember how it engaged the people of South Australia, including many not of the Catholic faith.

More than anything else, Pope John Paul II will be remembered for his personal qualities and the example he set. He was a man who fought Nazism, communism and tyranny all his life. Indeed, when he became pope his homeland of Poland had begun casting off its communist system. Many believed his undoubted moral authority at that time accelerated that process. The Pope also fought passionately for peace, especially in the Middle East and other theatres of war and places racked by discord. He spread his vision to Africa, Asia and the Third World.

He was ferocious in argument and firm in conviction, steeled by the fires of war and occupation and religious suppression. It must be said that he was not willing to cast off beliefs long held or rules obeyed for centuries. He believed the church should hold fast to what it stood for and should not yield to what many saw as the lazy and materialistic fashions of the times. When his health was in steady decline, the Pope made the years he had left a relentless mission. In doing so he pushed his timetable, punished his health and pronounced on politics and world affairs as few popes had done before. He never shirked controversy. He was a conservative yet at times a radical, but always an activist. For 26 years or more he was a tireless advocate for the oppressed.

Pope John Paul II was also a man of many talents. He was a keen sportsman, a playwright and an actor. The second occasion John Paul II attended Australia as pope was in 1995. On this occasion he celebrated mass at Royal Randwick Racecourse in Sydney. This occasion had special significance for South Australia. On that day he beatified Mary MacKillop, a humble nun who spent much time in Penola and Norwood. Like the Pope, she had great courage. We are enormously grateful that it was he who took the first steps towards her canonisation. Like many South Australians, I hope that process will gain pace under the new pope and that Mary MacKillop will be one of the first to be made a saint during the next pontificate.

Pope John Paul II fought the good fight, finished his course and kept the faith. In sickness and in health, in war and peace, in schism and reconciliation, he showed us the meaning of courage, faith and principle. Though his legacy is an inspiring one, the world is definitely poorer without him. On this day I extend my personal condolences to Archbishop Philip Wilson and all members of the Catholic congregation in South Australia.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members in the chamber to support the condolence motion moved by the Leader of the Government and in doing so share many of the points the Leader of the Government has made on behalf of government members. The great affection that many within the Catholic and broader community held for John Paul II was well evidenced by those who attended Catholic parishes over the last weekend and also the vision many of us saw on television news services of people, young and old, expressing remorse, in tears, at the passing of what they believed was a great man and, for many of them, their spiritual leader. As many will know, irrespective of what particular church they attend, with the possible exception of perhaps the Hon. Mr Evans, many of us in the older religious communities do not necessarily see huge attendances at our weekly services, and certainly for those of us of Catholic background, as I have recounted, in many of our parishes we see an increasingly aged congregation celebrating the weekly church service.

It was interesting on the weekend from personal experience and from what one saw on the television news services that many people young and old came out to either attend a church service or express commiserations at the passing of John Paul II. I believe that is an indication of the affection with which he was held by many people here in Australia. I think an impressive part of it too, for the Catholic community, was seeing that many young people were part of congregations expressing sympathy at his passing.

As the Leader of the Government has indicated, those of us in Australia have had two opportunities to be part of a

broader congregation with the Pope. One was in 1995 at the beatification of Mary MacKillop at Randwick Racecourse and on that occasion I was privileged, as a member of the former government, to be a small part of 200 000 plus people celebrating mass. I saw first-hand the impact of the Pope on the Australian community—and on the Sydney community in particular, although many people from all over Australia travelled to Sydney to be part of that celebration.

I think the leader indicated that the Pope visited South Australia some time in the mid-1980s, and I was again fortunate to be amongst the tens of thousands who attended a celebration at Victoria Park Racecourse. Along with many, it was my first personal experience of seeing the popemobile, moving at a slow pace around the racecourse and up and down the aisles so that as many people in that congregation as possible could see the Pope as closely as possible through its windows.

Looking at the chronology of the Pontiff's life that has been recorded in many newspapers and magazines in the last few days, one finds that the reason for the popemobile was because of an attempt on his life by a Turkish gunman in May 1981 and, again, when a rebel Spanish priest tried to stab the Pope in Portugal in 1982. He was unhurt in the stabbing attack but he was, obviously, hurt when shot by the Turkish gunman. Certainly, by the time he visited Australia in the mid-1980s it was clear that the Pope—who, as the Leader of the Government has indicated, obviously had an intention to get as close to the people as possible—needed to be protected in some way. A number of the articles written in the last few days have highlighted the fact that the Pope visited the Turkish gunman in his prison cell and, face-to-face, forgave him for his actions.

The stories, articles and features that have been written or shown on television over the last few days have highlighted the Pope's role in terms of being a significant factor in ending 70 years of communist rule in Russia and Eastern Europe. Certainly, his early visit to Poland as the Pontiff (I think he was elected the first non-Italian pope in 1978 and the following year returned to his communist-ruled homeland of Poland) is seen by most commentators as assisting in the rise and increasing popularity and support for the Solidarity movement there. All through that period he was an outspoken advocate not only of freedom in his homeland but also of peace on the world stage.

During his period of almost 27 years as Pope, John Paul II met almost every significant head of state or government. He opened diplomatic relations with Israel in 1993, and he was the first pope to pray in a synagogue in 1986 and enter a mosque. He was credited, as I said, with being a major force behind the diminution of communism in Europe. He was also an outspoken critic of war over a long period, including outspoken comments opposing the US invasion of Iraq in recent years. In looking at some of the commentary, I was drawn to an article in *The Times* by William Rees-Mog under the heading 'Beacon of faith shining for all'. This gives one person's estimation of the influence of his papacy compared to many others over the centuries. In the article, William Rees-Mog said:

> John Paul II has been one of the great historic figures in the nearly 2000 years of papal history.
>
> There are indeed a few popes who stand out from the others; they include Gregory the Great, who sent St Augustine to convert the pagan Anglo-Saxons. . . But in the second half of the past century there were two great papacies, one of which has just ended.

Mr Rees-Mog in the rest of that article—and I will not quote it in detail, but it is reprinted in *The Australian* in an eight page special liftout—traces and explains why in the words of that commentator he believes that the John Paul II papacy was indeed one of the great papacies of the Catholic Church.

With that, I repeat the support from Liberal members in this chamber for the condolence motion that has been moved by the Leader of the Government. We will have an opportunity to pay our respects at a commemoration service, I believe this Friday, which is being organised by the Catholic Church in South Australia, and I think with the assistance of the South Australian government. It will be a fitting opportunity for many people to participate—and I suspect many young people from Catholic schools in South Australia will probably participate as well—in a tribute and a commemoration service for John Paul II.

The Hon. IAN GILFILLAN: I indicate support for the condolence motion. I cannot help but reflect on the words 'sincere regret' at the passing of the Pontiff. I would imagine that, for an old man who has given so much of his life and suffered so much pain, the passing may not be so much a regret as a recognition of the earthly termination of a very brave and worthwhile life. However, many of us are not of the Roman Catholic faith, although we are Christians. I am an Anglican Christian, and the Pope does not hold the same place in our hierarchy, although we believe that we are part of the overall Catholic Church, and therefore certainly there were aspects of what the Pope steadfastly defended in the Roman Catholic denomination with which Anglican Christians disagree.

They are quite significant differences, but I think they are the differences which will emerge in the coming decades and perhaps even longer where civilisation and humanity evolve into different acceptances, different tolerances of what is human behaviour. Some of what the Pope stood for Anglican Christians believe are outmoded, such as the celibacy of priests, birth control and the non-acceptance of abortion under any circumstances. These are areas where many of us, recognising the greatness of the man, must also in fair conscience recognise there are differences in what we believe and what we put forward as Christianity in our view. However, none of that diminishes the enormous admiration, affection and respect that I have personally for a man who showed the world enormous courage and enormous humility in circumstances where any normal human would be inflated with a sense of their own importance and the pomp and ceremony that went with it.

No-one could fail to be moved by his so transparent love of people, his determination to fight against the causes and the expression of war, all of which are such valuable and such desirable crusades in a genuine Christian context in the world where the differences are of secondary importance. Therefore, with no trouble in my conscience, as a Christian of the Anglican faith, I strongly support the motion of condolence.

The Hon. A.L. EVANS: Family First supports the condolence motion. The Catholic Church worldwide is a huge organisation that has affected for good millions of people. The leader of such an organisation has to be a man of enormous ability, great judgment, strength and spirituality. During his 26 years as leader of the world's largest church, Pope John Paul II has lived up to the above, never faltering on the truth, always flexible to reach out to all people; a man of peace and a man of compassion. This world is a better

place because of his influence. He is now at peace in the presence of Jesus and no doubt has heard the famous words of Christ, 'Well done thou good and faithful servant.' This is the highest commendation a person can receive from his master. I want to thank God for Pope John Paul II.

The Hon. J.F. STEFANI: I too rise to support the condolence motion, and I join many Catholics and other Christians to mourn the passing of Pope John Paul II. As a pontiff, he was a remarkable man and gave much to the world, bringing messages of peace and freedom. He was a man who crusaded the true Christian values to the world. When he visited South Australia, I was very fortunate and privileged to be part of a group of people involved in the erection of the podium at the Victoria Park Racecourse, and I had also the privilege of being very close to him as he blessed the crowd after mass. That certainly left an indelible impression on me, as a man of great dignity and peace, exceptional moral values, coming from a very humble background—his Polish background. The Polish community, given that he was one of the very few non-Italian popes, has much to be proud of in giving one of their sons to be a true leader in Christian values and great courage. In death he showed the world how we can come to terms with that final moment by peacefully accepting the will of God. May his soul rest in peace.

The Hon. NICK XENOPHON: I join with my colleagues in supporting this motion. On any account, Pope John Paul II was a remarkable spiritual leader. He was a unifying force for the Catholic Church. He engaged with all his heart with other faiths, in dialogue with them, whether it was the Muslim faith, the Jewish faith, or with other Christian denominations, and I know that for the Greek Orthodox community his meeting several years ago with the patriarch and with the Archbishop of Athens, where regret was expressed for what had occurred in the past, just shows what a remarkable man he was.

When I was reading about the passing of Pope John Paul II, I was moved by a remarkable incident at the end of World War II when a concentration camp in Poland was liberated. Pope John Paul II, as a young priest, carried on his back an emaciated, very ill inmate of that camp some three kilometres to get medical help. I think that says something about the character of this man who went on to become one of the great spiritual leaders of the Catholic Church.

History will judge Pope John Paul II as one of the great popes and one of the great unifying individuals in the Christian Church. I join with my colleagues in supporting this motion, and I acknowledge the achievements of Pope John Paul II in bringing about the fall of totalitarian regimes in Eastern Europe. They will never be forgotten. The strength that he gave to the Solidarity movement led by Lech Walesa in the 1980s was pivotal to the fall of communism in Western Europe and the Berlin Wall ultimately coming down. I support the motion wholeheartedly.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I rise to support the motion on the passing of the Holy Father Pope John Paul II. As members would be aware, on the morning of 3 April 2005 in a statement from the Holy See press office it was confirmed that the Holy Father died at 9.35 p.m. Vatican time in his private apartment. At 8 p.m., the celebration of mass for Divine Mercy Sunday began in the Holy Father's room, presided over by Archbishop Stanislaw Dziwisz with the participation of Cardinal Marian Jaworski, Archbishop Stanislaw Rylko and Monsignor Mieczyslaw Mokrzycki.

During the course of the mass, the viaticum was administered to the Holy Father and, once again, the sacrament of anointing of the sick. The Holy Father's final hours were marked by uninterrupted prayer by all those who were assisting him in his pious death and by the choral participation in prayer of thousands of the faithful who for many hours had been gathered in St Peters Square. They were of course joined in prayer by millions of people of the Catholic faith and the thoughts of many throughout the world.

The Holy Father was born Karol Jozef Wojtyla in Wadowice, Krakow, Poland in 1920. He has been widely acknowledged as a significant contributor to world affairs through his important role in the ending of the Cold War and his leadership in reaching out to people of all faiths and supporting peoples, particularly amongst the developing world. My colleague the Leader of the Government in this place has already placed on record Pope John Paul II's history in becoming pope, so I will not repeat that. He was the first non-Italian born Pope since Adrian VI of Holland in 1542 and the first Slavic pope. In June 1979, less than a year after his succession as the supreme pontiff, he travelled to Poland to offer comfort and support to the Polish people, triggering a wave of resistance to Eastern Bloc communism. History recognises him as a significant figure on the world stage throughout the period of the demise of Eastern Bloc communism and the ending of the Cold War conflict.

In 2000, in a supreme gesture of humility he publicly asked for forgiveness for the sins of Roman Catholics throughout the ages, including the wrongs inflicted on Jews, women and minorities. This was typical of his period in office. He was widely recognised for reaching out to people of other faiths and minorities throughout the world. He was a leader with great energy, history's most travelled pontiff, having participated in 104 visits to foreign countries. In doing so, he provided leadership throughout the developed world and, more significantly, to peoples of the developing world.

In 1986 the Holy Father visited Australia and again in 1995 for the beatification of Mother Mary MacKillop. The Holy Father's message of acceptance, tolerance, and the need to embrace the diversity of the world's people and cultures gave inspiration to many of us who live in multicultural societies such as Australia. I was privileged to be part of a parliamentary delegation in December 2003 with the Attorney-General and Minister for Multicultural Affairs in the other place (Hon. Mick Atkinson) and the member for Norwood. We were part of a public audience and shared in the joy of listening to the Pope's Christmas message. It was the Wednesday before Christmas and, I must admit, it was a very moving experience. I can assure the chamber that what his body lacked in terms of strength was made up by his sharp intellect and spirit. From memory, he gave his message in the language of each person present on the day and, along with the rest of the delegation, I am indebted to the archdiocese of Adelaide for organising the audience for us.

Along with Premier Rann, I was pleased to join the parishioners of the Adelaide archdiocese last Sunday for their normal Sunday mass. It was probably the first public mass celebrated by Archbishop Wilson since the announcement of the Pope's death. In his homily the Archbishop reminded us of the great example and inspiration that was John Pope Paul II's life. We are now seeing nine days, I think, of official mourning for the head of the church who was one of the most

influential people of the 21st century. His stewardship of some 26 years has left this world a better place because of his understanding and care towards the underprivileged in our society. He promoted and encouraged our youth and had a rapport never witnessed before. He was an example for all of us.

As a family I remember that we were part of the audience at the Victoria Park Racecourse when the Pope visited South Australia in 1986. Again, this event was attended overwhelmingly by our youth, and the celebration of faith that day united so many. I also remember when the Pope was shot. As other honourable members have mentioned, he visited his assailant in prison to forgive him. This indicates the capacity of his love and his overwhelming forgiveness of the human race. He was an exceptional man. He grew up in Poland from humble beginnings. He lost his mother and his only brother when he was very young.

The essence of human kindness was always with him until his death. He was a man for the people, and all respected him from every walk of life. Above all else, the Holy Father, Pope John Paul II, will be remembered as a leader of great tolerance and compassion. His dedication to peace and human rights has influenced and inspired millions of Catholics and people of other faiths around the world. As the spiritual leader of over one billion followers, the Holy Father spoke out forcibly on issues of war and peace. He stated: 'In our time, every war is unjust.' In his January 2003 address to the Vatican he stated: 'I say no to war. War is not always inevitable. It is always a defeat for humanity.' I extend my personal condolences to Archbishop Philip Wilson and all who share the Catholic faith.

The PRESIDENT: I rise to make a contribution on this matter. I shall always remember 3 April 2005. When I heard of the death of the Pontiff, I was in a very small church in Port Germein to witness the first holy communion of my two grandsons. From that point on, it was very clear to me that that day would be important, not only in my life but also in their lives, as a significant event attached to their faith and, I hope, as an example in their lives.

When I was thinking about making a contribution in this very important debate, I realised that many honourable members would be making long contributions and laying out the life of the Pontiff and all the good work that he has performed during his lifetime, not only as the Pontiff but also the examples that he set to us all even before he became Pontiff. I think that, as politicians, we have come to expect that there is some significant event for which people will be known.

There are many examples—speeches that people have made and actions that they have performed—and, when one looks at the Pontiff's life, one will see that they are many and varied. For me, I think that vision of the Pope at Easter sums up the goodness of the man, the piousness of the religious leader, his great strength and sense of duty on that occasion, his willingness to do his duty and the responsibility that he felt to his parish and the whole of the community, against great suffering. It was not what he said on that day, but what will live in my mind is that feeble blessing he gave.

I am inspired by the simple logic often expressed by the Irish, and I bear in mind that there are many faiths represented here today. The Irish say, 'I hope that God will take you in the palm of His hand and take you safely to your destination.' I think that is appropriate. I ask, and I am sure others ask, that God as we know Him will take the Pontiff in His care, cleanse him and resurrect him and take him to His side. I am sure that the good works of the Pope will be remembered for centuries. I fervently hope that the Lord will take the Pontiff to His side and protect him for all eternity. I ask honourable members to rise in their place and carry this motion in silence.

Motion carried by members standing in their places in silence.

[Sitting suspended from 2.57 to 3.14 p.m.]

PAPERS TABLED

The following papers were laid on the table:

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

- Reports—
  - Implementation of "Advancing the Community Together—A Partnership Between the Volunteer Sector and the South Australian Government"—December 2004
  - Inquiry into Retail Electricity Price Path—March 2005
  - Section 39 of the Passenger Transport Act 1994 Service Contracts Report
  - Supreme Court of South Australia, 2004
- Regulations under the following Acts—
  - Community Titles Act 1996—Electronic Applications
  - Real Property Act 1886—Electronic Land Division Applications
  - Sexual Reassignment Act 1988—Corresponding Laws
- Rules of Court—
  - Magistrates Court—Magistrates Court Act 1991—Facsimile Signatures
  - Supreme Court—Supreme Court Act 1935—Single Judge

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

- Dog and Cat Management Board—Report, 2003-04
- Regulations under the following Acts—
  - Adoption Act 1988—Fees
  - Gaming Machines Act 1992—Forms and Fees
  - Liquor Licensing Act 1997—Long Term Dry Areas—Millicent
- Occupational Safety, Rehabilitation and Compensation Committee—Response by Minister for Industrial Relations to Report on Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill

By the Minister for Emergency Services (Hon. C. Zollo)—

- Reports, 2003-04—
  - Adelaide Hills Wine Industry Fund
  - Balaklava and Riverton Districts Health Service Inc
  - Central Northern Adelaide Health Service
  - Central Yorke Peninsula Hospital Inc
  - Child and Youth Health
  - Department of Human Services—Amended Appendix 1: Hospital Activity Statements
  - Drug and Alcohol Services Council
  - Langhorne Creek Wine Industry Fund Annual Report
  - McLaren Vale Wine Industry Fund
  - Meningie and Districts Memorial Hospital and Health Services Inc
  - Quorn Health Services Inc
  - Riverland Wine Industry Fund
  - Royal Adelaide Hospital
  - South Australian Apiary Industry Fund
  - South Australian Cattle Industry Fund
  - South Australian Deer Industry Fund
  - South Australian Dental Service
  - South Australian Pig Industry Fund
  - South Australian Sheep Industry Fund
  - Southern Yorke Peninsula Health Service Inc
- Regulation under the following Act—

Teachers Registration and Standards Act 2004—Qualifications.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. G.E. GAGO: I lay on the table the report of the committee on plastic bags.

FINANCIAL STATEMENTS

The Hon. CARMEL ZOLLO: I table a ministerial statement made by the Hon. Rory McEwen on the 2003-04 financial statements for the Department of Primary Industries and Resources SA, which were qualified by the Auditor-General.

QUESTION TIME

GLENSIDE HOSPITAL

The Hon. R.I. LUCAS (Leader of the Opposition): My question is to the Minister Assisting in Mental Health. Can the minister indicate why she supports the Rann government's policy for the removal of Glenside Hospital?

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): As the honourable member would know, mental health has suffered many years of neglect—I think we would all agree that that has happened over the last decade. As I explained yesterday, this government has already announced a further $80 million capital works spending in mental health in the 2004 budget.

The Hon. R.I. Lucas: Do you support the closure of Glenside?

The Hon. CARMEL ZOLLO: Glenside will be closed, if you like, over time. We have a—

The Hon. R.I. Lucas: Why?

The Hon. CARMEL ZOLLO: Because we are actually building facilities and programs elsewhere, where they are actually needed in the community. Do you want to see people just shut in Glenside? Is that what you are suggesting?

The Hon. R.I. Lucas: We want to see it retained.

The Hon. CARMEL ZOLLO: I think you announced—

Members interjecting:

The PRESIDENT: Order! There is a new minister in the council. We all understand that people will want to test her and others will want to assist her.

Members interjecting:

The PRESIDENT: Order! The honourable minister got there by her own competence and she is entitled to answer the question in her own time and in the manner she feels is necessary.

The Hon. CARMEL ZOLLO: Thank you, Mr President. I am aware that the Liberal Party has announced it will retain Glenside but as a mental health rehabilitation facility, which really shows that they do not understand what is already happening with the government's $80 million mental health building program. We are building not one but three 20-bed specialist community rehabilitation facilities of the sort Mr Brown says—

Members interjecting:

The PRESIDENT: Order! The minister has the floor. Interjections are out of order.

The Hon. CARMEL ZOLLO: —he eventually wants at Glenside. We are building three. We are building one in the northern suburbs, one in the southern suburbs and one in the inner west—where people actually live and can take advantage of those facilities. We are doing this in partnership with the federal government and the funding is already locked in. The two in the north and south are scheduled to be completed by the end of 2007, while the one in the inner west will be operating later this year. Building facilities in the northern and southern suburbs, close to where people live, was a key recommendation in the Generational Health Review.

Mr Brown cannot say how much his proposal would cost or exactly what it is. Perhaps the honourable member would like to tell us. He is clearly out of touch with community thinking and, more importantly, he is out of touch with what is already happening in mental health.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: He is now making announcements, perhaps for facilities that are being built elsewhere. I think the Hon. Mr Brown announced that he was building a new mental health facility at Flinders Medical Centre in 1998, to be finished in 2000. It never even started, despite his being health minister for almost another four years. We now have the bulldozers in and we are building a facility, along with the new facility at the Repatriation General Hospital, and both will be completed by early next year. I think that answers the honourable member's question.

The Hon. R.K. Sneath: Blew them out of the water.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I have a supplementary question. Given the minister's answer, does she now concede that she has broken her promise made to the people of South Australia in 2002 that a Rann Labor government would develop Glenside as a rehabilitation centre, introducing national standards and evidence-based care?

The Hon. CARMEL ZOLLO: The honourable member did not hear what I said. I said that we are building facilities in the northern, the inner west and the southern suburbs. That came out of the generational health review. That is the recommendation of that review. That is where people live, and that is where they want their facilities.

The Hon. R.I. LUCAS: I have a further supplementary question. Does the minister indicate that the policy that her government or party took to the election now accounts for nothing in relation to its commitments to keep Glenside?

The Hon. CARMEL ZOLLO: I am certainly not of that view.

The Hon. R.I. LUCAS: I have a further supplementary question. Does the minister accept—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —that she and her party promised the people of South Australia prior to the election that they would keep Glenside Hospital open?

The Hon. CARMEL ZOLLO: What this government has done is consult—

The Hon. R.I. Lucas: No; what did you promise?

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: We have consulted the people we represent. I say to the honourable member that if Dean Brown had started doing what he promised in the late 1990s—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: —we would not have much to do in mental health now.

The Hon. NICK XENOPHON: I have a supplementary question. How many new patient beds will be available with the proposed new facilities; and will they more than offset the number of patient beds that will be lost as a result of the proposed closure of Glenside?

The Hon. CARMEL ZOLLO: I am just looking at a chart of our budget commitments, and for 2002-03 it indicates the following: $17 million over four years for 40-acute beds at the Flinders Medical Centre, and that is anticipated to go to tender in August, with completion in mid 2006; and $9.8 million for 38-acute beds at the Repatriation General Hospital, and that is anticipated to go to tender in August and to be completed again in early 2006. There is also a $400 000 interim upgrade of the Paediatric Adolescent Mental Health Unit at the Women's and Children's Hospital. In 2004-05, there is $7 million to develop a 20-bed aged acute mental health facility.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: I am giving you the answer. What do you want to know?

The Hon. Caroline Schaefer: It is not related to the question.

The Hon. CARMEL ZOLLO: These are mental health beds. What are you talking about?

The Hon. R.I. Lucas: How many is it? Is it more or less than there are at the moment?

The Hon. CARMEL ZOLLO: I do not have that information in front of me.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: Listen and you will learn.

The Hon. R.I. Lucas: You don't have the answer.

The Hon. CARMEL ZOLLO: You don't want to learn; you don't want to hear the answer.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: The budget includes $7 million to develop a mental health facility at the Women's and Children's Hospital, commencing in 2008, with completion in 2010. I will go through these with the Hon. Nick Xenophon and then, if I need to provide him with any further information, I will bring back a reply. There is $6.5 million to develop a 30-bed adult acute mental health facility at Noarlunga; $2.8 million extra funding to establish 40 new adult acute and 20-aged acute mental health beds at the Lyell McEwin Health Service, commencing in 2005, with completion in 2007; $1.6 million initial funding for construction for a 40-bed secure forensic mental health facility, replacing the existing facilities split between Hillcrest and Glenside; $1.6 million for expansion of the mental health facility at Modbury Hospital to 25 beds, commencing 2005, with completion in 2007; $1.2 million initial funding to provide a 30-bed rehabilitation mental health facility, commencing 2007, with completion in 2010; and RAH redevelopment, including a new 28-bed adult acute unit, commencing 2008, with completion in 2011. However, as I said to the Hon. Nick Xenophon, as to any comparison, I actually do not have those figures in front of me, so I undertake to get a response and bring it back to the honourable member.

The Hon. J.M.A. LENSINK: I rise on a point of order. I understand that the minister was reading from a particular document and I ask that it be tabled.

The PRESIDENT: I am sure she was quoting the figures that she has in her possession in an attempt to answer the question.

Members interjecting:

The Hon. J.M.A. LENSINK: Mr President, the minister referred several times to the fact that she was reading from a particular document.

The PRESIDENT: Indeed she did, in an attempt to provide the statistics that were required in answer to the question, 'How many beds?', I distinctly heard, 'There are 40 beds here, 40 beds there.' I cannot tell the minister how to answer the question and I would suggest that people who want to talk about reference to reading from documents, rather than referring to copious notes, are sliding down a very slippery pole.

The Hon. R.I. LUCAS: I have a point of order. Sir, you have previously ruled in relation to the tabling of documents. The opposition is interested in your ruling in relation to this particular issue. We will follow it with interest in relation to further such occasions.

The PRESIDENT: On occasions such as this, if someone quotes from a document, it is the entitlement of any member to move that the document be tabled, and that is usually carried through.

The Hon. R.D. LAWSON: Mr President, I move:

That the minister table the document from which she read.

The Hon. P. HOLLOWAY: Mr President, you would be aware that the standing order—

The PRESIDENT: A motion has been moved. It has been seconded. On these occasions, there is no debate. There needs to be a vote.

Motion carried.

The PRESIDENT: The minister will need to table the document.

The Hon. P. HOLLOWAY: Mr President—

The PRESIDENT: There is no debate about it. I cannot alow it to be debated. This is a matter which is the subject of no debate.

The Hon. P. HOLLOWAY: The Deputy Leader of the Opposition, I would put to you, sir, set a new precedent in relation to how this issue is interpreted some months ago, when I asked him to table—

The Hon. R.I. Lucas: Are you taking a point of order?

The Hon. P. HOLLOWAY: Yes, I am, Mr President.

The Hon. R.I. Lucas: On what?

The Hon. P. HOLLOWAY: In relation to the interpretation.

The PRESIDENT: Are you seeking clarification of my ruling?

The Hon. P. HOLLOWAY: Yes, Mr President. It is my understanding that there are a number of grounds that apply to the tabling of documents, and I believe the honourable member—

Members interjecting:

The Hon. T.G. CAMERON: I rise on a point of order. The document the minister referred to should be tabled in its entirety, not selectively sorted through and pages removed, which is what she is doing at the moment. I therefore ask you to rule on whether the document should be tabled in its entirety.

The PRESIDENT: If someone refers to a document, my ruling has to be that the document, as a result of the process

of a formal motion and a decision of the council, should be tabled. That is all the precedents in the past.

The Hon. CARMEL ZOLLO: Mr President, I read a table which is an attachment in its own right.

The Hon. R.I. LUCAS: I rise on a point of order. A motion has passed this council. The minister is now seeking to subvert that motion by removing pages from the document that she had. It is not an issue of what she read from. A motion has passed this chamber that says the document from which the minister is reading, not the bit that she actually read—and she is referring to some of the pages now—must be tabled. She cannot choose the pages she wants to table and the pages she does not. If she does, the minister is in contempt of this chamber.

The Hon. P. HOLLOWAY: You are in defiance. Mr President, may I speak to the standing order? I have now discovered the standing order.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: On a point of order, Mr President, I have now discovered the standing order.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: There's a much more fundamental one than that, and that is the standing order.

Members interjecting:

The PRESIDENT: Order! The minister will remain silent.

Members interjecting:

The PRESIDENT: Order! Other members will remain silent. Standing order 452 provides:

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

The minister quoted from a document (somewhat extensively, in fairness) and the motion was properly moved and passed. If the minister is saying that this is a confidential document, there is some defence for her position. If it is not a confidential document, the decision of the council of the whole must prevail. Minister, are you claiming confidentiality?

The Hon. CARMEL ZOLLO: I did not in any malicious way try to remove pages from this document to assist me in my response. I knew that I had something that I was looking at for a contribution tomorrow. It lists, as I have said, some of our achievements in mental health.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: It took a while for me to read them out, didn't it?

Members interjecting:

The PRESIDENT: Order! The minister has the call.

The Hon. CARMEL ZOLLO: I had not had an opportunity to read this. It is something that I wanted to go through today to see whether there is anything in confidence. I prefer not to table it until I have had a good look at it. I did not maliciously take anything out.

The PRESIDENT: The question is: are you claiming that it is confidential?

The Hon. CARMEL ZOLLO: Yes, I am.

The Hon. R.I. LUCAS: On a point of order, Mr President, this chamber has passed a motion requiring the presentation of a particular document. There is nothing on my reading of the standing orders which, after a motion of this chamber has passed, allows a minister to claim confidentiality retrospectively. If the minister or any other member wanted to stand on his or her feet and point out this particular issue—

The Hon. P. Holloway: I took a point of order, and the President ruled wrongly.

The Hon. R.I. LUCAS: —and to raise the issue as the member—

The Hon. P. Holloway: I did raise the issue; I took a point of order.

The Hon. R.I. LUCAS: This has got nothing to do with you. On a point of order, Mr President—

The PRESIDENT: Order! Both members will sit down. This is the sequence of events. There was a claim by the Hon. Ms Lensink that the minister was extensively reading from the document. The procedural motion was moved and the procedural motion was that the document lay on the table. I suggest that the President did not err in his judgment because the rule is quite clear that when a motion is moved there is to be no debate. The minister believed that there was a matter of real importance because he believed it to be confidential. That matter was subsequently dealt with, but not at the precise moment that he raised the matter. He raises a valid point: if the document is of a confidential nature, it is exempt. Unfortunately, that sequence of events took place after the council had decided to take action.

The Hon. CARMEL ZOLLO: Mr President, I am happy to table this document. As I said, it is really our achievements in mental health. Perhaps the opposition will learn something.

Members interjecting:

The PRESIDENT: Order! The matter has been determined.

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: On 8 and 9 March the annual general meeting of Anangu Pitjantjatjara was held at Umuwa on the lands in the far north-western part of South Australia. The meeting was attended by, amongst others, as observers—

The Hon. R.K. SNEATH: Sir, I rise on a point of order. The Hon. Mr Lawson is obviously reading from a document, and I call for that document to be tabled.

The PRESIDENT: You would have to move it.

The Hon. R.D. LAWSON: I would be delighted to table the document, with copies for all members.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Sneath made the observation that he believed that the Deputy Leader of the Opposition was reading from a document, and he asked for it to be tabled. He did not move it. The Deputy Leader of the Opposition said that he was happy to table it. So, no further action is needed. If the member wants the document to be tabled, the Hon. Mr Lawson has said that he will table it. The only thing that has occurred here is that there has been an interruption to the flow of the question. The Hon. Mr Lawson has said that he is prepared to show the document to the honourable member, if the member wants to go and talk to the Hon. Mr Lawson, or he will table it at the conclusion of his explanation.

The Hon. R.K. SNEATH: I moved that it be tabled.

The PRESIDENT: No, you did not.

The Hon. R.K. SNEATH: I beg your pardon. I moved that it be tabled after I raised the point of order.

The PRESIDENT: You asked that it be tabled.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Mr President, I move:

That the document be tabled.

Motion carried.

The PRESIDENT: The Hon. Mr Lawson can continue with his question.

The Hon. R.D. LAWSON: Thank you, Mr President. The meeting was attended by the member for Giles, Lyn Breuer MP, and the member for Morphett, Dr Duncan McFetridge, who are members of the Aboriginal Lands Parliamentary Standing Committee. At the meeting, the previous chair of AP, Mr Gary Lewis, handed a petition to Ms Breuer that stated:

. . . criticise the state government for undermining 'the self-determination and authority of all traditional owners of the Pitjantjatjara lands.'

It affirmed the right of traditional owners to express their views and opinions. It criticised the APY executive for failing to seek separate legal representation for the traditional owners. It reminded the government and the executive board of the statutory requirements to obtain the approval of traditional owners prior to endorsing any major decision. The petition also called for funding to be provided to allow traditional owners to obtain legal representation.

The member for Giles initially refused to table or read the petition. She told the meeting that she wished to obtain legal advice. Subsequent to speaking with the Premier's staff and obtaining legal advice, Ms Breuer addressed the meeting, and I will refer briefly to some of her statements. She said:

. . . many of you wanted to know what was in the envelope. I'm sorry I've taken so long to get back to you, but I had to get legal advice about whether I was able to tell you exactly what was in that letter.

Then she went on to say that she would fax the letter through to the Premier and deliver the letter to the Premier, 'and once the Premier has read the letter then he will decide what is to be done about the matter'. My questions to the Premier are:

1. Has the petition presented by Mr Gary Lewis on behalf of traditional owners now been read by the Premier?

2. Does he accept the criticism in the petition about the state government undermining the self-determination and authority of the traditional owners of the lands?

3. What does the Premier intend to do about the matters raised in the petition?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question on and bring back a reply.

The Hon. KATE REYNOLDS: I have a supplementary question. Can the minister's reply also provide information about to whom the letter handed to the member for Giles was addressed?

The Hon. P. HOLLOWAY: Since we are having a day when standing orders are being rigorously applied, I really wonder how that could possibly be a supplementary question. Nevertheless, I will endeavour to find whatever information I can for the honourable member.

FOOD SA

The Hon. CAROLINE SCHAEFER: My question is to the Minister Assisting the Minister for Industry and Trade. Will the minister outline in detail what her association with Food SA, the South Australian Food Plan, the Premier's Food Council and the Food Council Issues Group will be now that she has been elevated to the ministry?

The Hon. CARMEL ZOLLO (Minister Assisting the Minister for Industry and Trade): As the honourable member would be aware, I will continue my involvement with Food SA. I was initially given those responsibilities at a time when the Leader of the Government of this chamber was Minister for Agriculture, Food and Fisheries, and I continued in my role as parliamentary secretary when those responsibilities were transferred to another minister. At the time, the reason for that was continuity and, hopefully, people thought I was of some assistance in that industry. Subsequently, I also took on other responsibilities in the wine industry.

I will continue in the roles of convening the Premier's Food Council, as a member of the South Australian Wine Industry Council, chairing the issues groups which help to drive the agendas of those councils, and I guess in assisting the minister in whatever other capacity he sees fit in his industry and trade portfolio. I think the honourable member would agree that there are some very obvious synergies between those industries and trade. As part of our strategic plan to increase our exports, the food industry will obviously be a major contributor, looking at contributing some $7.5 billion towards that plan.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Given that all previous ministers have required either a convenor or even a parliamentary secretary to fulfil the duties, because they were too busy as minister, does the minister consider that she is more capable than all previous ministers or that the Food Plan and the wine group are of less significance to this government than they previously were?

The Hon. CARMEL ZOLLO: I can assure the honourable member that the government does not, in any shape or form, consider them to be less significant or important. Indeed, I am humbled by the faith the Premier has shown in me, and I will continue to work hard for those industries.

MANNUM MARINA

The Hon. R.K. SNEATH: My question is to the Minister for Urban Development and Planning. What is the status of the proponent's request for the Mannum marina proposal to be declared a major development?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I am able to advise the council that on 31 March 2005 I declared the Mannum marina proposal a major development, under section 46(1) of the Development Act. This proposal was first considered and supported for major development declaration by my predecessor, Trish White. The Minister for the River Murray has also indicated support for the declaration. The $14 million marina development is proposed on a 130-hectare site immediately south of Mannum. It will include a fully serviced houseboat marina facility with 100 berths; waste disposal facilities and provisions for permanent occupation; a residential land division of up to 200 waterfront allotments, along with tourist accommodation and some retail and commercial opportunities; stormwater retention basins and a constructed wetland system for water filtration; and the relocation of the Mannum Wastewater Treatment Plant from the flood plain, with opportunity for the reuse of the wastewater to irrigate the adjacent golf course.

The scale and location of this proposed development on the River Murray is such that I consider the project to be of

major environmental, social and economic importance. A proposal of this magnitude is consistent with the state's strategic objectives of supporting sustainable economic growth and population expansion in regional South Australia. One of the challenges for the proponent will be to demonstrate that the development will not adversely impact on the health of the River Murray. Assessments under the major development process will provide a comprehensive and coordinated decision-making framework relating to all aspects of the proposed development.

I also stress that a declaration, pursuant to section 46 of the Development Act, does not indicate support or otherwise for such a proposal. It merely triggers the assessment path that the proponent must follow, which in the case of a major development includes the preparation of an environmental impact statement. I advise the council that subsequent to my declaration I have now written to the proponent requesting a formal development application for consideration by the Major Developments Panel.

DEEP CREEK

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Environment and Conservation, a question about the condition of Deep Creek.

Leave granted.

The Hon. SANDRA KANCK: Fleurieu Peninsula residents have been raising concerns for some time about the diminishing flows in Deep Creek, a creek which by its name was obviously integral to the Deep Creek Conservation Park. In recorded history the creek had flowed all year round up until 1995. Now it flows sometimes as little as seven months a year. The view of the locals is that the creek is drying up because of the uptake of water from a nearby pine plantation, which is effectively draining the Foggy Farm Swamp, which in turn feeds into Deep Creek.

An article in the *Victor Harbor Times* of 24 March has added far more weight to the concerns of residents. A local landholder, Kevin Bartollo, has commissioned his own study into the state of the creek, I assume in desperation because, having drawn the government's attention to the creek's plight early last year, he is quoted in the article as 'anxiously hoping for some action'. The scientific research Mr Bartollo has commissioned shows that, as a consequence of the reduced water flows, 15 aquatic plant species have 'gone missing' and that the adjacent Forestry SA plantation is the cause. My questions are:

1. As Mr Bartollo raised concerns about the creek's conditions a year ago, what action has the minister taken to assess the situation and what advice have his departmental officers given?

2. Given that the minister would have been aware of the drying up of the creek, why was it necessary for a local resident to commission the study?

3. Will the government refund Mr Bartollo for the cost of the study he commissioned?

4. In light of these scientific reports, what action will the government now take to ensure that Deep Creek can again run free?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her questions and will refer them to the Minister for Environment and Conservation in another place and bring back a response for the honourable member.

DOCUMENT, TABLING

The PRESIDENT: A serious logistical problem has arisen as a result of the call for the tabling of the documents quoted from by the Hon. Mr Lawson. Standing order 190 is very clear, as follows:

> No reference shall be made to any proceedings of the committee of the whole of the council or a select committee until such proceedings have been reported.

According to the Committees Act, the standing orders of the parliament must apply to these matters. An unfortunate situation has now arisen with this document headed 'An internal report: 23 March 2004'. I have to chide the Hon. Mr Lawson in the strongest terms.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lawson has erred seriously in quoting from these documents in this council, and consequently I am in a position where I have to rule, in accordance with the standing orders and the Committees Act, that this document cannot be tabled in the council. This is the consequence of game-playing with the standing orders; we are all now faced with a serious embarrassment. Nonetheless, the Hon. Mr Lawson, who has clearly breached standing orders by using this document in the council, is a senior member of the opposition and should know better. All members would be well advised to heed this example. I therefore rule that this document, although the subject of a motion of the council, is not to be tabled in the council. It will be returned to the Hon. Mr Lawson, but I do have to chide him for a breach of the standing orders.

The Hon. R.D. LAWSON: Mr President, whilst the clock is stopped I seek leave to make a personal explanation on that very matter.

Members interjecting:

The PRESIDENT: Order! A personal explanation is not necessarily subject to a stopping of the clock; a personal explanation can be made at any time. I will allow the honourable member to make the personal explanation simply because I am known for my great charity.

Lave granted.

The Hon. R.D. LAWSON: Thank you, Mr President, and I am indeed happy to acknowledge that charity. I did not refer to the deliberations or evidence of the Aboriginal Lands Parliamentary Standing Committee at all. It is true that the particular document which contained certain facts was provided to me by the Aboriginal Lands Parliamentary Standing Committee; however, as I read them, the standing orders do not prevent the use of a document which might be provided for the benefit of members by a parliamentary committee. I am well aware of the prohibition against referring to the deliberations of or evidence given to such a committee, and I never referred to the evidence or deliberations of that committee.

The PRESIDENT: Clearly, the question is not whether it was the evidence that was given. The standing order—

Members interjecting:

The PRESIDENT: Order! The reference made was to any of the proceedings of a committee. An internal working document prepared by the secretary is part of the proceedings and therefore falls within the purview of standing order 190.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Gago will come to order!

The Hon. SANDRA KANCK: Mr President, I ask you to rule also on the status of the Hon. Robert Lawson's question under those circumstances and whether, as a consequence, there is any requirement for the question to be answered.

Members interjecting:

The PRESIDENT: Order! The proceedings of that part of the council's deliberations have been concluded. They are recorded in *Hansard*. If, under the circumstances, the minister does not wish to provide an answer, that would be his decision. With any answers that ministers make they have the ability, as always, to answer a question in the way they see fit. Clearly, the question has been asked and a breach, either intentional or innocent, has been made. Therefore, my strong advice to the minister would be to take the question on its merits and decide whether it deserves an answer—even though it was made in error, ignorance or intentionally. The question will then be decided by the minister.

The Hon. SANDRA KANCK: Mr President, for future reference, given that the document was inappropriately tabled because of the nature of its origins, does this mean that we should not quote from such documents?

The PRESIDENT: Standing order 190 provides:

> No reference shall be made to any of the proceedings of the committee of the whole of the council or a select committee until such proceedings have been reported.

Now, someone might want to get technical and say that this is a standing committee, but the act provides that the standing orders of the council operate in respect of the standing committees as well. So the answer to your question is clearly, yes, it would be a breach.

MENTAL HEALTH

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron has the call.

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister Assisting in Mental Health questions about levels of spending on the provision of South Australian mental health services.

Leave granted.

The Hon. T.G. CAMERON: Information supplied to my office by the Mental Health Coalition of South Australia shows that this state has fallen from a position of leading national spending on mental health to being the second lowest in the commonwealth. The Mental Health Coalition has released data showing that South Australia has the lowest per capita spending of all Australian states and territories. At $106 per year per head funding, spending on South Australia's mental health system has declined from No. 2 position in 1992-93 to the worst in 2004-05. This partly stems from other states increasing the level of mental health funding in recent years at much greater rates than has occurred in South Australia.

The Mental Health Coalition believes that, to regain its former leadership position, the South Australian government would need to increase recurrent spending by almost $50 million each year. The importance of effective services to assist people with mental health problems cannot be understated. For example, it is estimated that one in five South Australian adults will have a mental health problem during the next 12 months (it seems a low statistic when one spends a lot of time in here); 58.4 per cent of South Australians will experience a serious mental disorder such as schizophrenia, bipolar mood disorder, some forms of depression, anxiety disorders and dementia; and 62 per cent of people with a mental illness do not have access to support services, relying exclusively on family and friends.

While the Mental Health Coalition recognises that the government has provided an increase of $80 million for mental health capital works programs, the problem remains that funding for the day-to-day provision of services (that is, beds, for example) is still at the bottom of Australian standards. My questions are:

1. As the new Minister Assisting in Mental Health, is the minister satisfied with South Australia's having the second lowest per head funding in the nation?

2. Considering South Australia now has a AAA rating and the government is accumulating millions of dollars in its coffers as a result of strong economic growth, will the government, as part of the next state budget, increase funding for the provision of day-to-day services in mental health to at least the Australian average?

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): My appointment is a clear message that this government will give and has given priority to mental health. We have, as I have said on several occasions now, regrettably seen some 10 years of neglect in this state—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: Well, over 10 years of neglect in this state. It is the reason why—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: It took 10 years. You neglected mental health. Dean Brown dropped the ball; he neglected mental health.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: I am aware of those statistics which the honourable member has mentioned. I have yet to have the opportunity—

The Hon. G.E. Gago: You should be ashamed of yourselves.

The Hon. CARMEL ZOLLO: Yes, you should be very ashamed of yourselves as an opposition. I have yet to have the opportunity to meet with the Mental Health Coalition. Certainly it is one of the groups that I will be inviting to talk with me. My role is to consult and to assist the lead minister in mental health—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: I think I answered the honourable member yesterday about what my role is.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: Precisely. The shadow treasurer now has two ministers across the table from him; perhaps he can remember that. I am really not quite sure what else the honourable member wanted. If there is anything further with which I can assist the honourable member, I will bring back a reply.

The Hon. T.G. CAMERON: As a supplementary question, the minister stated that she has not met the Mental Health Coalition yet. In view of the fact that it released its press release on 14 March, is she giving the council an undertaking that she will expedite a meeting with the Mental Health Coalition?

The Hon. CARMEL ZOLLO: I will give that undertaking. As members would be aware, I have not been a minister for long and, indeed, my office is being set up right now as

we speak. I think I now have a phone line and I am on line with my PC, so as soon as we get that organised we will be inviting not just the mental health coalition but all the other major stakeholders to set up meetings with me.

EYRE PENINSULA BUSHFIRES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question in relation to the Eyre Peninsula bushfires.

Leave granted.

The Hon. J.S.L. DAWKINS: On 9 February this year, I asked the former minister for urban development and planning a question about the Eyre Peninsula bushfires reconstruction. On that occasion I highlighted the concern surfacing throughout the bushfire-affected areas of the district councils of Tumby Bay and Lower Eyre Peninsula that Development Act fees could hold up the process of rebuilding houses and farm buildings.

I quoted from a letter I had received from former Eyre Peninsula-based civil and structural engineer, building surveyor and private certifier Mr Wayne Murphy. In that correspondence, Mr Murphy gave the following example of the Development Act fees for an average house: development plan assessment fees, $195; building rules assessment fees, $455; construction industry training levy $575; and builders' indemnity insurance, $1 225. Mr Murphy indicated that he would be refunding the full fee for building rules assessments, which he can do under section 39(4)(c) of the act. However, he said he was still required to remit 4 per cent of this fee to the minister, and he hoped that the minister would see fit to waive this requirement in respect of these cases.

I commended the government for its decision regarding stamp duties on fire-affected properties, before requesting that the then minister waive the Development Act fees, to ensure that bushfire victims can rebuild without having to subsidise the government, the insurance companies or the Construction Industry Training Board. Almost two months have elapsed since I asked that question and I have had no response on what is obviously a quite urgent matter. I now ask the new Minister for Urban Development and Planning to waive the Development Act fees in relation to the reconstruction of houses and farm buildings in the bushfire-affected areas of Lower Eyre Peninsula.

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the honourable member for the question. I will have to look at the legal implications and what powers and the like the minister has under the act, and I will get back to him as soon as possible. I will try to get an answer within the next 24 hours and let the member know.

SHOPPING SURVEYS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, as Leader of the Government in the Legislative Council, a question about shopping surveys.

Leave granted.

The Hon. J.F. STEFANI: On 14 September 2004 I asked a question regarding a shopping survey being conducted by a government-plated vehicle. The survey occurred on 8 September 2004 at approximately 8.30 am, when a government vehicle with two flashing amber lights on its roof was driving slowly along Port Road at Hindmarsh and occasionally stopping. The vehicle had an illuminated sign on top of its roof and the sign read 'shopping survey'.

In an answer to the question which I raised in this chamber, the Minister for Consumer Affairs advised me that she was not aware of any such survey and nor had she authorised such a survey being undertaken by the Office of the Consumer and Business Affairs. The minister also confirmed that she has no further information that might be helpful to me. In view of this answer, my questions are:

1. Will the minister undertake to seek information from each government department in relation to the shopping survey?

2. Will the minister advise the purpose for which the survey was undertaken by the government and make public the result of the survey?

3. Will the minister confirm which areas have been surveyed by the Rann Labor government and provide the reasons for the surveys, including the results of the surveys?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the appropriate minister and bring back a reply.

SMOKE ALARMS

The Hon. G.E. GAGO: Could the Minister for Emergency Services inform the council of any significant measure undertaken by the fire services to raise awareness and educate the community of South Australia on domestic smoke alarms?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her question and interest in this matter. In the month leading up to the end of daylight saving, the Metropolitan Fire Service and the Country Fire Service undertook an extensive community education campaign entitled 'Change your clock—change your smoke alarm batteries'. The aim of this campaign was to encourage people to routinely change their smoke alarm batteries when they turned their clocks back at the end of daylight saving, thus ensuring that their smoke alarm always has a reliable power source.

The campaign consisted of statewide television, radio and print advertising coverage supported by a wide-reaching public relations campaign. The Metropolitan Fire Service and the Country Fire Service undertook a number of public information sessions and creative media opportunities at strategic locations around Adelaide to recruit editorial support for the message that only a working smoke alarm saves lives. The campaign was supported by Duracell. This message was reinforced in the strongest possible way when a working smoke alarm saved a family of four when their house was gutted by fire in the early hours of the morning of 15 March 2005. Although this is only one example of many instances where working smoke alarms have saved lives, the timing of this tragic event emphasised the importance of this very simple practical message. The campaign evaluation shows exceptional results measured by the increase in battery sales over the campaign period, and annual surveys undertaken show a staggering 75 per cent recall of the campaign and its message. Again, I thank the honourable member for her interest.

FARMBIS

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

Leave granted.

The Hon. IAN GILFILLAN: The answer to a question asked by the Hon. Caroline Schaefer was distributed yesterday. It states, in part:

> The commonwealth government has cut back its funding for FarmBis 3 from $167.5 million over three years for FarmBis 2 (2001-04) to $66.7 million over four years for FarmBis 3 (2004-08).

That is a drop from $167 million to $66 million. It goes on:

> The new FarmBis 3 program in South Australia is proposed as a $14 million program over four years (2004-08). . . Therefore, on a per annum basis, FarmBis 3 funding is less than FarmBis 2.

And I may say significantly less, Mr President. I have received an email response to questions I asked of Laura Fell, the recently appointed current Chair of FarmBis in South Australia. My first question was: is the current funding for FarmBis adequate from both state and federal governments; if not, what is the shortfall? Ms Fell explained what I have just indicated. She said that not only has the commonwealth government cut the funding but it has indicated that the maximum training subsidy to producers will be decreased to 65 per cent of eligible costs—previously, it was 75 per cent of eligible costs—and that the commonwealth has also 'tightened the eligibility criteria for training activities (must clearly be structured learning, not just information provision, and at 'management level') and eligible participants must earn most of their income and spend most of their time in their rural enterprise. Land managers may only participate in natural resource management programs.'

My second question was: if adequate, what, if any, assurance do you have of continuation of that funding past the extent of funds currently available? The answer from Ms Laura Fell, Chair of FarmBis, is as follows:

> The FarmBis forward budget estimates to June 2008 have been signed off by cabinet and treasury. There is no flagging of a future FarmBis program beyond 2008 from either the Commonwealth or State.

My questions are:

1. Is it clear that the commonwealth government is downgrading its support for FarmBis, as shown in the commitment to Farmbis 3 (2004-08)?

2. As there is no commitment from commonwealth or state governments after 2008, is the ongoing existence of FarmBis after 2008 at risk?

3. Will the state government give a commitment for further continued support, financial and otherwise, after June 2008?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important questions on Farmbis. I will refer his questions to the Minister for Agriculture, Food and Fisheries in the other place and bring back a reply.

RETIREMENT VILLAGES

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 Ageing, a question about the purchase and sale of units in South Australian retirement villages.

Leave granted.

The Hon. A.L. EVANS: Recently, a member of the community wrote to me raising concerns about the purchase and sale of units in South Australian retirement villages. In particular, she expressed dissatisfaction with the current system, which permits contracts to be written in such a way that it is the owner of the retirement village, not the person who has a licence to the property, who gains the financial windfall when and if the unit is sold. She provided an example of a person who is known to her who entered into a contract to purchase a unit located in a retirement village. Due to the terms and conditions of the contract, he will not make a profit or capital gain when the unit is sold because he will receive only three-quarters of the sale price, based on the original price and not on the current market value of the property. Once he receives his portion, the outstanding amount is returned to the owner of the retirement village.

The example provided is not uncommon. I understand that organisations such as the South Australian Retirement Village Residents Association has for many years endeavoured to inform people who are considering purchasing a unit located in a retirement village that they should obtain independent legal advice prior to signing a contract. My question is: would the minister consider an initiative whereby retirement village owners, on a voluntary basis, can offer a standard contract similar to the generic contract available to landlords under the Residential Tenancies Act and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): That is an important question for my colleague the Minister for Families and Communities and the Minister for Ageing. I will refer the question to him for a detailed response.

OFFICE OF THE SOUTHERN SUBURBS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for the Southern Suburbs, a question about the Office of the Southern Suburbs web site.

Leave granted.

The Hon. T.J. STEPHENS: In July last year I asked the following questions about the web site of the Office of the Southern Suburbs:

> 1. Does the minister agree that it is important that the people covered by the Office of the Southern Suburbs are kept regularly informed of its activities, as a way of keeping the office accountable?
> 2. Given that the newsletter of the office is not widely available in hard copy unless you go to the office itself, does the minister agree that it is important that the web site be maintained as a source of information for southern suburbs residents?
> 3. When can residents of the south expect a new and widely available newsletter with meaningful and helpful information?

Some nine months later, I received a one-paragraph answer, as follows:

> More generally, it is appropriate for the office to communicate with the public from time to time. This communication will include meetings, forums, articles in the media and an internet presence.

Upon investigation this morning, it was discovered that there were in fact two web sites purporting to be for the Office of the Southern Suburbs, one which had hardly any information on it but which was recently updated, and the second which had a link to the blatantly political and misleading material that it was producing. My questions are:

1. What is the cost of maintaining the two web sites?
2. What is the purpose of having two web sites?
3. Who is maintaining the web sites?

4. Does the minister agree that the maintenance of two web sites is confusing for the public and that it is, in fact, a cumbersome system to use?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I noticed that the honourable member's preamble to his question contained a significant amount of opinion, with which I would disagree. In relation to the detail of the question, I will refer that to the minister and bring back a reply.

PARLIAMENT, REGIONAL SITTINGS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking you, Mr President, a question about regional sittings of parliament.

Leave granted.

The Hon. KATE REYNOLDS: In May, the House of Assembly will be sitting in Mount Gambier, as you well know, Mr President, as I hope do all members in this place. Every member of the House of Assembly represents one local electorate. However, every part of South Australia is my electorate, just as it is yours, Mr President, as well as the electorate of every other member in this place. Voters who have an issue can take it to their local member, but every constituent in the South-East, the Riverland, the Mid North, the Far North, the West Coast, the Adelaide Hills, the Fleurieu and, indeed, metropolitan Adelaide can legitimately make their representations to any one of us here in the Legislative Council, as can any constituent from any other part of the state I have not already mentioned.

Members of this chamber represent every citizen, regardless of where they live. It has been put to me by regional communities that singling out Mount Gambier for a sitting of the House of Assembly in fact disenfranchises other communities. I understand that the regional sitting will cost many thousands of dollars—

An honourable member: Tens of thousands.

The Hon. KATE REYNOLDS:—tens of thousands of dollars, if not perhaps hundreds of thousands of dollars, to take the entire House of Assembly, parliamentary staff, advisers and Hansard, etc., to Mount Gambier for what the government has claimed is an opportunity to see democracy in action. Yet apparently no consideration has been given to taking the Legislative Council on the road, despite the fact that we in our work, both inside and outside the parliament, represent every citizen in the state.

I note that with only 22 members, as opposed to 47 in the House of Assembly, it would be considerably less costly to the taxpayer to take us on the road to enable our rural constituents to observe democracy in action, warts and all. So, my questions are:

1. Have you, sir, held discussions with the Premier or government ministers about the Legislative Council sitting in any regional areas?

2. If so, what reasons were given by you or the Premier or government ministers for not supporting regional sittings of the Legislative Council?

3. If not, will you hold discussions with the Premier or government ministers about the Legislative Council sitting in regional areas, and will you report the outcome of those discussions to the council?

The PRESIDENT: The answer to the first question is no. Because I have had no discussion, the answer to the second question is no. Will I be having discussions with the Premier about future sittings of the Legislative Council? Invariably, I will be involved in any of those discussions. If the election promises of the government are to be carried through to their fullest extent, one would expect that consideration in relation to fulfilling the promises of regional sittings will be discussed at some future time. However, at this time, I have had no discussions.

GAMBLING, CODE OF PRACTICE

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Gambling, questions about enforcement of codes of practice and laws with respect to gambling in this state.

Leave granted.

The Hon. NICK XENOPHON: On 20 July 2004 and also on 22 November 2004, I asked questions of the Minister for Gambling, in broad terms, with respect to the degree of enforcement and the resources available to enforce codes of practice and gambling laws in this state. I note that I received responses yesterday from the minister in relation to that issue. In particular, the minister's response to my question of 22 November indicated that, between 1 May 2004 and 30 November 2004, 439 inspections of gaming venues had been conducted by the 10 inspectors employed by the Office of the Liquor and Gambling Commissioner to inspect hotels and clubs with respect to compliance of all obligations under the Gaming Machines Act 1992, gaming machine regulations, licence conditions and codes of practice. Thirty items are specifically addressed, and equal weight is given to all of these obligations.

The response of the minister also was that, between 1 May and 30 November 2004, 337 venues received letters regarding non-compliance with either the provisions of the act, the regulations, the licence conditions or the codes of practice, and reference was made that in the majority of cases a document was simply not maintained. However, non-compliance is also recorded if an inspector is of the opinion that the document provided was insufficient in terms of its content, according to the minister's answers. My questions to the minister are:

1. What protocols are in place for such inspections? For instance, are venues routinely advised that there will be a visit from an inspector on compliance issues at some approximate time in the future so they are given some notice of it, and on how many occasions was that the case? How many of the 439 inspections referred to were totally unannounced and unexpected by venues?

2. In relation to the 337 venues that have received letters with respect to non-compliance, can the minister broadly categorise the type of non-compliance referred to? Further, what are the protocols for determining whether there ought to be any disciplinary action taken or considered, and in how many actions was disciplinary action or any other enforcement mechanism taken under the provisions of the act, the regulations, the licence conditions or the codes of practice?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I should have indicated earlier that, during the absence of my colleague the Minister for Aboriginal Affairs and Reconciliation, it was agreed that my colleague the Minister for Emergency Services will take questions directed to the Minister for the River Murray and the Minister for Environment and Conservation, and I will take questions directed to the Minister for Aboriginal Affairs, the Minister for Administrative Services and the Minister for Families and

Communities. Given that the question was directed to the Minister for Gambling, I will refer that question to him and bring back a reply.

CRIMINAL ASSETS CONFISCATION BILL

Adjourned debate on second reading.

(Continued from 28 February. Page 1218.)

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will support the second reading of the bill. The current South Australian law on the subject of criminal assets confiscation is the Crimes (Confiscation of Profits) Act. That act empowers the court to make orders against a person who is convicted of criminal offences, and I refer to forfeiture orders, pecuniary penalty orders and restraining orders. The act confers extensive powers on police and was first passed as part of a national initiative in 1986. The act was extensively amended in 1996. The current law is conviction-based legislation, and it is considered by law reformers and others that this type of legislation is now not considered to be effective.

The commonwealth and other jurisdictions have now moved to civil forfeiture systems for the recovery of criminal assets. South Australia is the last state to retain a conviction-based system, and this bill is designed to bring South Australia into line with other jurisdictions. It was introduced at the request of the Police Commissioner. The bill is a long and complex piece of legislation. It occupies over 110 pages. The reason for its length and complexity is that this bill represents a new separate code of law which stands alongside the criminal law. Its procedures are quite different from the ordinary criminal law. The essence of this bill is a system of court supervised procedures for the confiscation of the proceeds and also the instruments of crime. A bill such as this, which, in certain circumstances, will allow the assets of a person who has not been convicted of any crime to be forfeited to the Crown is clearly a remarkable change from the common law concepts which have applied for so long.

The preliminary question which is asked is: should we abandon the requirement that seizure of assets cannot take place until after a person has been convicted? And only if we decide that it is appropriate to abandon the conviction-based system should we determine whether or not the model for seizure contained in this bill is the appropriate model. I suppose the short answer to the first question—namely, whether we should abandon the current system—is that the current system of seizure after conviction has not worked as effectively as it was contemplated that it would and it has not worked as effectively as it should. Over the past eight years, assets confiscated or forfeited in South Australia have amounted to only $3 million. That is a pitiful return for eight years, when it is widely known that criminal activity is extensive and profitable.

By the time a conviction is recorded under the current system, the assets of even the wealthiest criminal are usually exhausted on legal expenses or have otherwise been dissipated. There is little left for the Crown. There is little left to enable the victims' fund to be recompensed.

The first civil forfeiture in Australia was introduced by the New South Wales Liberal government in 1990. In introducing that legislation, the then premier, the Hon. Nick Greiner, made the following points:

> The purpose of this legislation is to deprive those involved of their illicit profits, profits earned at the expense of their victims and of the community generally. Importantly, it is not only the profits of a discrete transaction, but the proceeds of a life of crime that will be confiscated. It is not only the person directly involved in the transaction but also those who knowingly benefit from his or her activities who will be called to account for drug-derived assets and profits.

The New South Wales premier went on:

> This legislation, like the Commonwealth Customs Act, treats the question of confiscation as a separate issue from the imposition of a criminal penalty. It essentially provides that a person can be made to account for and explain assets and profit, whether or not the person has been convicted, and even if the person has been acquitted in the criminal courts, the critical thing that must be proved is that it is more probable than not that the person engaged in serious drug crime.

I might interpose that the New South Wales legislation was specifically directed at drug crimes. The then NSW premier continued:

> Proof on the balance of probabilities is the same standard of proof as that used in the ordinary civil jurisdiction. The more stringent standard of proof beyond reasonable doubt is a creature of the criminal law. I want to emphasise, however, that no criminal consequences will flow from this legislation. Rather, the consequences are that the person has to justify, account for, and explain where his or her assets came from. Only if the person cannot show the assets were derived lawfully will they be retained by the Crown.

The federal Liberal government and every other state have abandoned the conviction-based system in favour of the new civil confiscation method. Moreover, civil confiscation and forfeiture are not new. As the Hon. Nick Greiner mentioned, customs authorities have been seizing goods before trial or conviction for centuries.

There was a report in 1999 of the Australian Law Reform Commission. It recommended the adoption of this form of action, namely civil confiscation. The commission recognised the distinction between criminal punishment on the one hand, and the recovery of assets gained through unlawful conduct on the other. The report said:

> The concept that a person should not be entitled to be unjustly enriched by reason of unlawful conduct is distinguishable from the notion that a person should be punished for criminal wrongdoing. That is to say that, while a particular course of conduct might at the one time constitute both a criminal offence and grounds for the recovery of unjust enrichment, the entitlement of the state to impose a punishment for the criminal offence, and the nature of that punishment, are independent in principle from the right of the state to recover the unjust enrichment and vice versa.

That is from paragraph 2.78 of the Australian Law Reform Commission report.

The current system has proven to be ineffective. For example, one barrier to the recovery is the requirement that the prosecution prove that the assets or funds sought to be seized were obtained as a result of a particular offence. This is especially difficult in pursuing the assets of drug dealers. For example, it might be known and proven that a drug dealer has engaged in a particular trade which was observed in some public place. The drug dealer might be arrested and there might be seized from his or her purse or wallet $50, $100 or $1 000 and also perhaps some unsold illicit substance. However, the particular transaction might only relate to a $50 trade, and of course the amount of goods seized when the person is arrested might be relatively minimal. It might be easy to establish on the balance of probabilities that this person has great wealth, no visible means of support,

substantial assets, a lovely home on the Esplanade, three Rolls Royces in the driveway, but no visible means of support. To seize from such a person the proceeds of a particular crime for which he has been convicted (namely, the sale of $50 worth of drugs) would be very little disincentive to a life of crime.

I think it is important to note that there have been no particular abuses or adverse effects reported thus far from those jurisdictions which have adopted civil forfeiture. I have taken the trouble to look at the report of the Director of Public Prosecutions in Western Australia, which indicates that the experience there has been that significantly more in monetary value has been obtained under this system than the earlier system. Accordingly, the Liberal Party believes that we should support the principle of civil forfeiture. However, we are anxious to ensure that there are appropriate legal protections in place. In this particular instance, this bill's form of legal protection is judicial oversight and access to review by independent courts. Because judicial oversight is entrenched in this bill and the process does contain within it the right to appeal and to have a review by an independent judiciary, in our view, it provides appropriate protection. It strikes the right balance between the rights of people to retain without any explanation such assets as they might have against the right of a community not to suffer at the depredation of criminals.

Regarding the second question which I posed a little earlier in this contribution—namely, is this model for seizure appropriate—we argue in the affirmative on the basis that it does provide adequate protection. This bill will repeal the Criminal Assets Confiscation Act 1996 and replace it with a new model. However, many of the procedures which applied under the earlier act in relation to conviction based forfeiture will continue. One pivotal rule in the new civil confiscation system is that prosecuting authorities will be able to prove their case on the balance of probabilities rather than on the more onerous standard of proof which applies to criminal proceedings: namely, proof beyond reasonable doubt. This is a feature of civil confiscation legislation around the world.

The types of orders that can be made under the bill are restraining orders and freezing orders, forfeiture orders, pecuniary penalty orders and literary proceeds orders, and there are provisions in the bill that facilitate the gathering of information, including the examination of persons and the production of documents and material—so-called production orders. There is capacity for law enforcement agencies to give notices to financial institutions requiring the divulging of information. In addition, of course, the bill contains search and seizure provisions and the capacity for monitoring. Each of those issues is discussed in some detail in the very extensive second reading explanation, and I will not repeat them. However, it is worth placing on the record our understanding of the effect of some of these orders.

A freezing order is a short-term order that can apply for up to 72 hours. It is a restraint that is put upon the financial assets by police before they apply to a court for a restraining order. The freezing order is made by a magistrate, who must be satisfied that there are reasonable grounds to suspect that the person in whose name an account is held has committed or is about to commit a serious offence or has derived a benefit from the commission of such an offence. The expression 'serious offence' means an indictable offence, a serious drug offence or a number of other specified serious offences—for example, the use of children in commercial sexual services, illegal fishing, illicit participation in selling liquor, unlawful gaming, trading in native plants and fauna, keeping and managing of brothels, unlawful possession of property, and so on.

When one sees that long catalogue of offences, one readily appreciates the type of criminal activity that is undertaken and the fact (as must be obvious) that there are in those illegal activities opportunities for the making of a great deal of money. The particular crimes are identified as serious offences (the subject of this particular regime) because they are said to be the subject of organised criminal activity.

The second category is a restraining order. This is an order made by a court, which may make a declaration allowing part of the proceeds to be used for living expenses, business expenses or for the payment of specified debts. A restraining order will cease to have effect if charges are withdrawn or if the suspect is acquitted or a conviction is quashed.

With respect to forfeiture, clause 47 of the bill provides that the court must, on the application of the Director of Public Prosecutions, make a forfeiture order if the person is convicted and the court is satisfied that the property represents proceeds of the offence or, after the expiration of six months, the court is satisfied that the property represents proceeds of one or more serious offence.

Pecuniary penalty orders are dealt with in clauses 95 to 109. These orders enable the DPP to obtain an order from a court for the forfeiture of a sum of money which represents or is equivalent to the value of property which was used as an instrument of crime or which represents the proceeds of crime. Such an order is made in cases where the DPP is unable to pursue the tainted profit itself.

Clause 110 deals with literary proceeds orders. These orders are designed to deprive a criminal of the benefit of commercial exploitation of their notoriety—for example, by selling stories to the media. It has been suggested, for example, that were those offenders who have been convicted of the horrendous so-called Snowtown murders, or the bodies in the barrel murders, to seek to sell their life stories to a media organisation or to publish an account of their deeds, it would be an affront to the public conscience to allow them to profit from their crimes in that way. Literary proceeds orders are covered by clause 110 and, when this bill comes into operation, they will give to law enforcement authorities the opportunity to make an application to the court and seize such proceeds.

On the subject of information gathering generally, the bill expands the current provisions relating to investigations. Examination orders can be made by a court that will permit the DPP to examine a suspect or a person related to the subject, principally by traced assets, with the objective of identifying assets. The court can make orders requiring the production of property tracking documents; police can obtain information from financial institutions; and monitoring orders may be made by a court that require a financial institution to provide information about transactions and accounts. Magistrates may issue search warrants and orders requiring owners of computers to allow access to them. Some might regard these provisions as draconian. However, criminals do use the new technologies; they use a sophisticated means of transferring funds and of hiding funds and of laundering money and the like. What we have at the moment is police with at least one hand tied behind their back in this constant battle against criminals.

Clause 207 should be mentioned. It deals with the subject of legal costs and allows the payment to be made out of property covered by a restraining order to the Legal Services

Commission for legal assistance costs. Legal assistance costs are defined. The idea of this legislation is not to deprive a person of access to assets for the purpose of enabling them to obtain legal advice, but the current scheme has been highly defective in this particular area. The presumption of innocence, coupled with the requirement to prove guilt, has meant that, when courts allow persons charged to have access to assets, the assets will soon, by the ingenuity of their advisers, be dissipated, either in applications challenging the amount of funds released, applications challenging varying rules made by the courts or appealing up and down the ladder of appeals.

It has been established on a number of occasions that, if there is ready access, or a presumption of access to assets for the purpose of using them for legal defence and the like, the assets are soon dissipated. The protection here for the innocent is that the Legal Services Commission will be required to provide legal assistance to a person, but that legal assistance will be at the rates that the Legal Services Commission pays on a proper assignment of legal assistance, with competent counsel being paid appropriately, but it clearly will not allow for the most expensive or extravagant of legal defence.

The victims' fund will receive the proceeds of confiscated assets. First, the costs of administering the act, the employment of the administrator under the act, would be paid. After the payment of those costs, the balance would be paid to the Victims of Crime Fund. We think it is appropriate that the balance of the funds is paid in that way, rather than into consolidated revenue.

So far as I am aware, the Law Society has not provided a response to this bill. It certainly had not the last time I made inquiries, but I am happy to be corrected if the government has received a comment from the Law Society. However, it is fair to say that lawyers' organisations have consistently opposed measures of this kind: their opposition to them has been as strenuous as the support from law enforcement agencies. Whilst one can argue endlessly about the merits of legislation of this kind, we do not agree with the populist claims of the Premier of this state, where he says, 'I want the victims to benefit, not the crims.' That is a catchy little tune, which may impress some. However, this is a complex measure, which involves questions of principle. We believe that it is a balanced measure. We understand the civil liberties arguments, and we understand that some will argue that innocent people may lose assets which were used in crimes without their knowledge or approval. However, notwithstanding the Premier's posturing, South Australia in this respect is following the other states—we are not leading. Other governments have embraced the concept of civil forfeiture, and we believe that we should follow the same approach.

The government, with its posturing, is always claiming to be the toughest in the land. I should not say, 'claiming to be the toughest in the land' but rather 'not apologising for being the toughest in the land'. That is the favourite rhetoric of the Premier: I do not apologise for being tough on this or that issue. He is not being very tough here. As I have said, he is merely following other jurisdictions. He has not followed the rather more draconian type of legislation they have in Western Australia. Contrary to the Premier's usual claims, this will not be the toughest in Australia. In Western Australia, the Criminal Property Confiscation Bill, introduced in June 2000 as a lead-up to an election, included a number of measures: for example, the confiscation of a person's unexplained wealth, whether or not they have been convicted or even charged with a criminal offence. The provisions there are aimed at those who apparently live beyond their legitimate means of support.

The scheme of the Western Australian act is that the Director of Public Prosecutions may apply to a court for an unexplained wealth declaration if 'it is more likely than not that the total value of the person's wealth is greater than the value of the person's lawfully acquired wealth'. In Western Australia, the onus is on the person to prove that his wealth was lawfully acquired. If that declaration is made there by the courts, the fund or property is paid to the state. The Western Australian act also empowers the court to declare that a person who is convicted of certain drug offences is a 'drug trafficker' and that all of the property such a person owns or controls is forfeited to the state.

A number of other elements of the Western Australian legislation the Premier has chosen to overlook in this bill are: the provision that opinion evidence may be received by a court from any police officer who is experienced in the investigation of illegal activities (so, opinion evidence is very widely allowed); the court may make orders based on hearsay evidence; legal professional privilege is overridden; and justices of the peace can issue search warrants.

In this state, under this legislation, the power to issue warrants is granted to magistrates, and the level at which various discretions are exercised is higher than in Western Australia. One might make a strong case for introducing some of the elements of the Western Australian regime, and we will certainly be looking with interest to see whether those elements ought be introduced here. But, in the meantime, we are prepared to support the government's bill. In doing so, we are by no means captured by the Premier's self-serving self-assessment in which he constantly portrays himself to the community as a champion of law and order when what he is in fact is the champion of huff, puff and hypocrisy on the subject of community safety. Notwithstanding those reservations, we support the bill.

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

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NEW ELECTRICITY LAW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1410.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak on the second reading of this bill. On behalf of my Liberal colleagues in the Legislative Council, I congratulate our colleague the member for Bright, the shadow minister with responsibility in this area, for his very comprehensive second reading contribution in the House of Assembly. Certainly in most areas he adequately put the Liberal Party's position. In terms of my treatment of this, I would see an extended period in committee, so I will not speak for a couple of hours on the second reading outlining again all the issues and concerns the Liberal Party has in relation to the legislation. For those who are interested, I refer them to the comprehensive contribution by the member for Bright in the House of Assembly debate.

The opposition's position in relation to this matter, as put by the member for Bright, is that we will not oppose the legislation, even though we have some significant concerns in relation to a number of the provisions in the legislation and

some significant concerns about the way the current Minister for Energy, the Premier, the Treasurer and this government have handled the whole electricity and energy debate, and particularly the operation of the National Electricity Market.

First, I remind members that in around June of last year this chamber and the parliament were told that urgent legislation needed to be passed through the parliament to establish the Australian Energy Market Commission as part of the new arrangements for the National Electricity Market. I know that Liberal and Independent members were placed under some pressure by the state government and, in relation to state Liberal Party members, attempted pressure was placed on them by members of the federal Liberal government in relation to its perceived need to have that urgent legislation passed through the parliament before the end of June 2004.

Without going through all the details of the commitment, it is fair to say that the Minister for Energy and other ministers have been promising that legislation for some time. Certainly the opposition indicated publicly on a number of occasions that we doubted very much whether the deadlines that had been set would be achieved. Frankly, what we saw last year was a facade where the governments of Australia obviously decided, in an endeavour to at least appear as if they were complying with the deadline for the introduction of the new National Electricity Market arrangements, on legislation being rushed through the parliament. In essence, it simply established the skeletal framework of the new bodies that were to operate in the National Electricity Market.

The existing bodies, NECA and NEMMCO, would continue to operate and are still operating as we debate further legislation nine or 10 months later. Even though we have established the Australian Energy Market Commission (AEMC) and the Australian Energy Regulator (AER), the existing bodies and regulatory authorities continue to operate in South Australia and nationally also. Last year we simply appeared as if we were establishing the new regulatory arrangements.

When members of the upper house select committee took evidence late last year, without going into the detail of it, it is fair to say that confirmation was given that the new bodies had not done any work, had not appointed chief executive officers, no staff were operating and in both cases decisions were still being taken in relation to where the headquarters would be located, and the appropriate role, responsibilities and functions of various arms of those bodies were still being determined. That was the situation at the end of last year when evidence was being taken and questions were being asked publicly in relation to the legislation.

I will use kinder and more parliamentary language than was used to some of us in June last year, but I indicate that state members of parliament were sold a pup during that period. Claims were made to members of parliament about the urgency of the legislation—claims that have demonstrably been shown to be untrue in terms of the perceived urgency of the legislation and the need for that legislation to be rushed through the state parliament. For those following the debate, there was an almost farcical stand off at one stage when the opposition asked for a copy of the intergovernmental agreement which had been entered into by the state government with the federal and other governments and which was fundamental to a consideration of the legislation. The opposition adopted the position that it was not prepared to pass the legislation until we had an opportunity to see that intergovernmental agreement. There was much bluster and threat by various ministers and their representatives on the issue, but ultimately a copy of the intergovernmental agreement was provided and members were at least able to consider it in the context of the debate.

When we get into committee, it will be illuminating to look at some of the answers members were given during the consideration of the Australian Energy Market Commission Establishment Bill and compare it with the reality we face today. The minister must accept his share of the responsibility for this appalling set of circumstances with which the parliament is confronted. Here we are, well into the fourth and final year of this term of the Rann government, and we are still considering what the minister claims to be his fundamental reform of the National Electricity Market. Whilst I am the first to concede that processing issues through any ministerial council is difficult, we have seen the degree of incompetence this current minister has demonstrated, by the fact that it has now taken us until the fourth year of this parliamentary term before we even see legislation being introduced into the parliament.

We are also told that further legislation is required in relation to the distribution sector of the electricity industry and that legislation ultimately will be required as it relates to the controls over retail pricing if the state government proceeds down that path. Having looked at the legislation and argued that I think our major debate will be in committee rather than in the second reading of the legislation, it is my assessment that if and when this legislation is implemented South Australia will not see the claimed magnificent benefits of the work supposedly undertaken by our Minister for Energy and the Rann government.

There have been any number of occasions over the past two years when the Minister for Energy, when there has been a particular problem, has offered the excuse to talkback radio hosts and others that that is why he is pushing for a fundamental reform of the national electricity market, and that is why we need to fundamentally change the national electricity market. It is a common phrase he has used to fob off Leon Byner, in particular, as well as Matthew Abraham and David Bevan on ABC.

The Hon. Nick Xenophon: They can't be fobbed off easily!

The Hon. R.I. LUCAS: I am not suggesting that they can be, but the Minister for Energy has used that phrase very often over the past two years to indicate that this is going to be resolved by his fundamental reform of the national electricity market, on which he is leading the charge on his white horse.

I indicate at the outset that I believe that in 12 months, in March 2006, after this legislation has been passed in the next couple of weeks or so in this parliament, the good people of South Australia will not see any significant difference in terms of the operation of the national electricity market as measured by the price of the service being delivered to them—whether that be the cost of electricity or the price of the various services or, indeed, the reliability of electricity services in terms of transmission and distribution to South Australian consumers. Time will tell whether the predictions of the Minister for Energy, Mr Conlon—

The Hon. Nick Xenophon: The Hon. Mr Conlon.

The Hon. R.I. LUCAS: Well, the Hon. Mr Xenophon might refer to him that way: I will call him the member for Elder. The Minister for Energy, or the member for Elder, will be judged by the inflated claims he has made over the past year or so about the magnificence of his legislation and the

efforts in terms of reforming the national electricity market. In my view, we are again being sold a pup by the Minister for Energy and, indeed, others in relation to—

The Hon. Nick Xenophon: Not Maxi!

The Hon. R.I. LUCAS: No, not Maxi; not the Hon. Mr Xenophon's pup, because at least that pup was useful for something—he did roll over on cue! We are being sold a pup by the Minister for Energy and other ministers in relation to this issue, but in just 12 months the people of South Australia will be in a position to make their own judgment. Will they see significant reductions in electricity costs in South Australia? Will they see significant new investment in the electricity industry in South Australia? Will they see improved reliability of electricity transmission and distribution services to themselves as consumers in South Australia? That will be tested in time, but it is my view that they will not and that the Minister for Energy and the Rann government will be exposed for the political frauds that I believe them to be on the critical issue of electricity.

It was interesting to see in recent market research (and I am not a great proponent of the value of one-off as opposed to trend line market research, but I think it was fair) that, whilst the Rann government was perceived to be performing moderately well on a range of policy issues, on the question of how it was handling the electricity issue it received an overwhelming thumbs down from the people of South Australia. The people of South Australia want a government of integrity, and they want a Premier who delivers when he promises cheaper power prices or promises to build an interconnector from New South Wales to South Australia (which was his fervent promise to the people of South Australia in 2002). They know that he has not delivered; they know that instead of cheaper power prices there has been an increase of over 20 per cent in power prices in South Australia; and they know that he has not increased the interconnection of the South Australian electricity market with any of the eastern states markets at all.

They also know (although they might not know the detail) that under the former Liberal government there was an increase of almost 40 per cent in just three years in terms of the electricity supply capacity in South Australia. Since the election of the new government there has been an almost negligible further increase, and there has been no major electricity generation plant built in South Australia—with the exception of some wind energy plant, which has its own particular problems and some small peaking load. There has been no increase in terms of interconnection, whereas in the last three to four years of the former Liberal government the interconnect was built through the Riverland, there was a new Pelican Point power station, and a significant number of peaking power plants were built throughout South Australia. Under this government we have seen investment in the electricity supply industry dry up almost completely, and in the long term that will be to the cost of South Australian industry and South Australian consumers.

One of the problems we have in the electricity industry is that we need to look long term, and we need ministers who are prepared to do that. Sadly, this minister has been diverted by concerns on other issues and he has not had the time or the capacity to devote himself to the troubles in the national electricity market and the electricity industry as he should have. Whilst the Premier relieved this minister of his responsibilities as minister for police in 2003, he should have relieved him of his responsibilities for the electricity industry at the same time and perhaps given him something simpler to handle. It will be to the long-term cost of South Australian consumers and industry that this Premier was prepared to sack him only as minister for police and was not prepared to sack him as minister for electricity back in 2003.

In terms of a significant restructuring of the national electricity market, the minister has claimed that we are seeing a significant deregulation of the number of regulatory authorities in the market in South Australia and nationally. To be fair to the minister, this claim has been made by many others as well, including the federal minister and a number of national energy commentators.

I ask members to look at what this combination of bills does. It gets rid of one body, NECA (National Electricity Code Administrator), and replaces it with two authorities—the Australian Energy Market Commission and the Australian Energy Regulator. Under the proposed arrangements, all existing state regulatory electricity authorities continue their operation. As advised to us, certainly at this stage the legislation requires the continued operation of state regulatory authorities, together with the addition of the AEMC and the AER, with just the removal of the National Electricity Code Administrator. I concede that I think at least in one part there has been some reduction in potential overlap (and we will pursue that during the committee stage) in terms of the code change process (or what will now be called the rule change process), and that there is potentially some reduction in the overlap of the work of the ACCC and other bodies and authorities; and certainly, if that is the case, we would welcome that.

That is certainly as it has been outlined to the opposition and, indeed, if that is the case, to the extent that that is achieved, we would certainly welcome that. In terms of the number of regulatory authorities and bodies, the claim that this is a significant reduction at this stage has no significance. As I said, we will see the establishment of two new national bodies and the abolition of one. NEMMCO (National Electricity Market Management Company) will continue to operate unmolested by this legislation and, as I said, two new bodies will be operating in the marketplace as well. I ask the minister: what is the current state government policy in relation to control over retail pricing in South Australia?

The minister was quoted in *The Sunday Mail*—I do not have the article with me, but I will have it in committee—as indicating that the state government had taken the decision to transfer responsibility for retail pricing to the Australian Energy Regulator. I am seeking confirmation of that statement made by the Minister for Energy to *The Sunday Mail*. I also seek an indication as to when he sees the next two tranches of legislation being introduced for consideration by the parliament. As I understand it, we will probably have to see another tranche of legislation before the end of the year in relation to the distribution sector of the electricity industry; and, given the apparent decision by the state government in relation to retail pricing, some time after the election in 2006 the new government will have to introduce legislation should it have a policy of handing over retail pricing to the Australian Energy Regulator in 2006.

I specifically seek from the minister an indication as to when the next tranche of legislation has to be introduced and passed, and confirmation about the government's policy on the handover of retail pricing to the Australian Energy Regulator. As advised to me, the state government is claiming that it is prepared to hand over the powers on retail pricing if the Australian Energy Regulator has an office in each of the states.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: That is the question. The Hon. Mr Xenophon hits the nail on the head. We can all have an office with a receptionist and an answering service, but I am sure there will be a person with the title of manager or the chief Pooh-Bah of South Australia for the Australian Energy Regulator. Specifically, we want to know what agreements the minister has reached with national authorities and other ministers in relation to the specific powers that any South Australian branch of the Australian Energy Regulator would have in terms of the powers and functions of the Australian Energy Regulator. How many staff will be employed, and what will be the powers and functions specifically of the South Australian office?

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Xenophon raises issues about delegated authority; that is exactly right. I would include those in the general questions. What are the powers and functions of the South Australian office compared to the national office, which I understand is to be in Melbourne? Already the opposition and some others have expressed concern about the willingness of this minister to sell out the interests of South Australian consumers by giving some state-based regulator in Melbourne responsibility for critical decisions.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: Whilst we welcome the Hon. Bob Sneath's waking from his slumber, he did miss the debate prior to being awoken. The point is that we have seen critical decisions being made over the past two or three years where the Australian Energy—

The Hon. R.K. Sneath: Have a go, Wal!

The Hon. R.I. LUCAS: That is all right Homer—

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: Homer and Edna over there.

Members interjecting:

The PRESIDENT: Order! I do believe the standard of debate is slipping.

The Hon. R.I. LUCAS: The only thing Edna needs is blue hair and they will be a perfect match. What we have seen in the past three years is the Essential Services Commissioner (when he was just one rather than four), Mr Lew Owens, actively engage and make decisions at the local level with the local medium. I think whilst that has been a difficult task for Mr Owens, and I am sure that there have been a number of occasions when all members have not agreed with the views and the decisions which Mr Owens was taking, nevertheless there was an advantage in that someone local with decision-making authority could engage with the local community and the media and immediately answer questions, rather than having to refer to some faceless bureaucrat from the eastern states in Melbourne with no knowledge or interest in the particular concerns of South Australian consumers.

As I said, I am disappointed that the Hon. Mr Sneath and others have so willingly sold down the drain South Australia's interests in relation to these issues and have obviously demonstrated unwillingness to even contemplate the import of the decisions that they have taken in relation to these issues. In relation to the issue of the role of the Ministerial Council on Energy, I understand that we now add a federal minister to that—and I am sure the federal minister will be delighted to participate in the forum. However, the claim in the second reading explanation is that, in some way, this legislation increases the power of the Ministerial Council on Energy.

My specific question to the minister is: will he please indicate what functions the proposed ministerial council will have which the existing ministerial council does not have? Certainly, on my reading and the reading of the member for Bright (both of us being former ministers with responsibility in this area), all this legislation does is define or clarify the existing position in relation to the Ministerial Council on Energy. Certainly, in the past, there are many examples where the Ministerial Council on Energy has taken decisions of a high level nature in relation to the policy framework of the National Electricity Market and has set in place processes to ensure that that would occur. All I see in the legislation is confirmation and clarification of that. However, I put the question to the minister: could he please specifically indicate where he believes there has been a significant increase in the power and authority of the Ministerial Council on Energy, and what is it that it will be able to do that it currently cannot do under the existing arrangements?

I also flag, as I indicated earlier, concerns about the future planning in relation to the electricity industry in South Australia. This will be an issue that we will be able to pursue in detail in the committee stage as well, but significant concern is being expressed about the exposure of the South Australian electricity market to the possibility of blackouts in the next summer period, the summer of 2005-06. The state has been advised by NEMMCO that, for South Australia to have the appropriate reserve margins for next summer, Basslink, which is, I think, to bring 600 megawatts of capacity across from Tasmania to the national market, to Victoria and South Australia, has to be ready by the fourth week of November this year. We now know that Basslink will not be ready by the fourth week of November. It may well now not be ready until well into 2006. Certainly, as a state, we are going to be exposed for the summer of 2005-06 to a much greater potential for blackouts.

I think that is very disappointing from the state's viewpoint, as we lead into a state election in March 2006, and as we lead into a period where a significant number of events will be occurring, to know that the Minister for Energy and the Rann government have left this state exposed to a position of a much greater potential for blackouts in that period leading up to March 2006. It is obviously the opposition's wish that we are not confronted with a position where we see significant blackouts during that period leading up to March 2006, but we place on the record, as we have for the last two years, our concerns at the lack of forward planning by the Minister for Energy and the Rann government.

Should the unfortunate circumstances arise in this coming summer where there is a significant increase in the number of blackouts, let it be clear that this government has been warned, and has been warned for some considerable time, about the urgency of ensuring additional supply, capacity and reliability in our South Australian marketplace. If there is to be the unfortunate circumstance of increased blackouts in the period of this summer, then the responsibility rests clearly with the Minister for Energy and the Rann government for their negligence and their incompetence in terms of the management of the market.

The final issue that I want to raise in the second reading contribution is that we, in South Australia, had the unfortunate situation just a few weeks ago of a major power blackout at a time when we were not confronted with excessive temperatures, at a time when we were not confronted with recalcitrant Victorian-based unionists pulling the plug on the interconnector providing power into South Australia.

Nevertheless, we faced a situation where a significant part of the state was blacked out. Members who are interested in this would be well advised to look at the NEMMCO report, 'Power system incident 14 March 2005, preliminary report', to get the background of what actually occurred on that particular occasion.

I will not take time in the second reading debate of the bill to go into the detail of that, but what intrigued me was that the Minister for Energy was obviously floundering around trying to find some sort of explanation to the talkback hosts as to why on earth we, as a state, were facing significant blackouts while he was the Minister for Energy. He started making a number of extravagant claims in relation to that blackout and this legislation.

The minister gave a number of interviews on 14 and 16 March. On 16 March, when he was asked by Matthew Abraham and David Bevan about the power outages and when he was trying to explain why on earth they had occurred, the minister said:

> One is NRG simply have a lot of questions to answer from people who've suffered in this, but the other thing is it stresses why we do need to complete this lengthy reform process we have been involved in for years, to fix the regulatory structure in the national market.

Further on he says:

> That reform bill is now in the upper house and I hope it's passed quickly.

He made a number of other statements, indicating on 14 March:

> Dr Booth's right about that. It's an extreme frustration. I really would urge the Liberal opposition to pass the bill in the upper house.

Again, the minister was indicating that, to reduce the possibility of the events of 14 March being repeated, it was essential that his reforms in this legislation were quickly passed by the Legislative Council. In all the discussions I have had with industry operators, no-one has been able to point out to me where anything in this legislation would have any impact on the events of 14 March 2005, and my question specifically to the minister is this: can the minister indicate any provision in this bill, if it had been in operation, which would have impacted to reduce the possibility of the events of 14 March from occurring?

As I said, no-one I have spoken to can point to anything here. In particular, they make reference to the fact that this bill has nothing to do with NEMMCO. NEMMCO, as the market operator, is unmolested by this legislation. It continues to operate according to the minister as it currently does, and the legislation does not impact on the role and function of NEMMCO. NEMMCO is the key body in relation to the operation of the market. It is the body that has looked at this power system incident of 14 March. It is the body the minister has had discussions with and, as I said, I challenge the minister to justify the statements he has been making that this parliament and the opposition need to get on with passing the legislation because in some way that is going to prevent the recurrence of the events of 14 March 2005.

It is my view that the claims that have been made by the Minister for Energy are demonstrably untrue. They were used to mislead journalists and members of the community in relation to the import of this particular legislation, and they were used as a device by the Minister for Energy to try to get himself off the hook from some difficult questions as to why on earth we were facing blackouts of the magnitude of those of 14 March. With that, I indicate that the opposition's position again is not to oppose the legislation. I have asked three or four questions in the second reading debate, and we will pursue in some detail during the committee stage many of the other issues that the member for Bright raised in the extensive second reading contribution he gave in the House of Assembly.

The Hon. NICK XENOPHON: I have very grave reservations about this bill. The promise of a national market for consumers of electricity has been, in many respects, a cruel hoax. The desegregation of the electricity industry I thought was the beginning of the end, in terms of providing a good outcome for consumers, particularly residential consumers, in terms of pricing.

I would like to outline some of the concerns that have been expressed to me. For instance, Dr Robert Booth, a very well-regarded consultant in the electricity industry, who has worked at the highest levels as a consultant and as a commissioner in Western Australia—he has advised governments around the country in relation to electricity policy issues—is concerned that there are flaws in the legislation, that it is being rushed through with minimal consultation. He thinks it is being put together by people who have a very imperfect understanding of electricity supply and what it takes to make the market work and that the input by people who know about these things, who work within the market and have an intimate understanding of it, has been minimal. That concerns me greatly. As I have said, I have a great deal of respect for Dr Robert Booth from my dealings with him. One of his concerns is that the vision of this market, which excludes the financial markets, is, at best, only half a vision and quite untestable. The vision of this market (any market) without a buyer is worse than no vision at all.

Dr Booth endorses the remarks of Dr Gavan McDonell, a well-known consultant and economist who has produced a paper which draws attention to the problems with the national electricity law and his misgivings about its constitutionality and the like. My colleague the Hon. Sandra Kanck has made reference to that paper. Dr Gavan McDonell prepared a paper for the Total Environment Centre in Sydney. The covering letter from the Total Environment Centre, which was sent to members in mid-February, refers to the doubtful constitutionality of the bill. It states that the MCE's proposed energy market reform program framework and the related commonwealth legislation was passed in a rush last June and is having paralysing effects on the ACCC's role as competition watchdog for the energy industries. I would be grateful if the government would respond to that in terms of the extent to which the ACCC's current role with respect to electricity industries will be modified (or, in a sense, mollified) by the passage of this legislation, so that we will lose that important watchdog role of the ACCC.

The Total Environment Centre states in its covering letter that the EMRP proposals are likely to lead to diversion of the national competition reforms. It goes on to make reference to other concerns such as the fact that COAG's Ministerial Council on Energy appears, in effect, to be making, not only coordinating, national policy for which jurisdictions do not have electoral mandates. It refers to defective jurisdictional and regulatory behaviour in the NEM which should be investigated, and it says that the continuation under the EMRP proposals of economic and pricing principles and practices (amongst other things) make major areas of economic and competitive theory which prejudice investor confidence; have attracted extensive criticism, including from the Productivity Commission; are in breach of established

environmental policies and prejudicial to appropriate technologies; are escalating greenhouse gas emissions and accelerating investment demands and costs; and do not address retail regulation or promote demand management and energy efficiency. That letter is from Mr Jeff Angel, the Executive Director of the Total Environment Centre and it is dated 17 February 2005. I am more than happy to table it should anyone request it.

The Hon. Ian Gilfillan: In its entirety?

The Hon. NICK XENOPHON: Every syllable, every bit of it, should it be so requested. Dr Gavan McDonell prepared a paper entitled 'COAG's quandary: what to do with the energy market's reform program? A review', dated February 2005. I note the comprehensive contribution of the member for Bright in the other place. Unlike the Leader of the Opposition in this place, I do think that the Minister for Energy (Hon. Pat Conlon) has been in a quandary in relation to the national market. This beast is a creation at a national level. It had a lot of promise a number of years ago but it has not delivered for consumers. I believe that disaggregation together with privatisation makes the problem much worse, but that does not mean that we should blindly adopt this bill which I believe is flawed in many respects. I will refer shortly to the Energy Users Association of Australia's final submission in relation to this, which I find to be quite telling. It makes a number of specific recommendations and puts a number of specific questions, which I believe it is incumbent on the government to answer.

In relation to the whole issue of disaggregation, it seems that what the national market has done is that there is now an extra level of, in a sense, regulation because, by virtue of disaggregation, where decisions were made previously when it so was a wholly-owned subsidiary, if you like, of the state of South Australia, problems could have been sorted out fairly quickly and relatively efficiently. Now with disaggregation in a privatised market, I think there are structural difficulties with that in that you now have to go through an exhaustive process where the outcome for consumers does not appear to be the primary concern. There are additional costs incurred by virtue of that process. A massive amount has been spent on consultants and through the regulatory framework, and, again, the outcome does not seem to be consumer focused.

I refer to the report of the Energy Users Association of Australia on the National Electricity Law dated January 2005. I want to go through this document, because I think it is important. It raises a number of important issues. I should indicate that there is a slight problem with this document, not so much with respect to its contents but, unfortunately, the sections to which it refers do not marry up with the clauses in the bill before the house. So, allowances will have to be made for that. I am grateful to Mr Don Frater, one of the minister's advisers, for confirming that for me. I am also grateful for his assistance generally with respect to this bill in terms of providing any information that I have requested. It is worth rating these concerns. The principles are set out clearly even if they do not relate to the sections referred to. The recommendations made by the EUAA are as follows:

> The explanatory material for the NEL bill make clear that the legislative intent is for the market objectives and the factors listed in section 15(2) to be interpreted in accordance with economic principles.

The section to which it refers is not the correct section, but it relates to the objectives of clauses of the bill.

I would like to put a number of questions on notice to assist the government in terms of being able to respond to the second reading debate. It should be borne in mind that the numbering that is referred to in the EUAA report does not match up with the numbering of the bill. I am more than happy to provide a copy of the submission to the government to assist it in relation to that. I believe that the matters raised ought to be responded to.

First, the EUAA is concerned that, in its current form, the bill does not make it clear that the market objective is not focused upon investment alone but, rather, the effective operation of the NEM overall. The EUAA recommends that immediate steps must be taken to consider the need for the NEM to include an appropriate process for merits review of decisions of the AER, AEMC and NEMMCO; that the onus in this should be for the MCE to show why merits review should not be included; and the process must also include adequate opportunity for stakeholder input. It also recommends that the Reliability Panel be granted a greater degree of autonomy than it currently enjoys and that end users have three representatives on the panel. In order to ensure that the market objective is given effect to, there should also be provision for a 'super vote' by end user representatives, commensurate with promoting the long-term interests of end users/consumers. There also ought to be funding for the Advocacy Panel to be entrenched in the NEL (and I will refer to that later).

It also states that the following amendments to the NEL be implemented, with suggested drafting, including: clarification of the market objective; entrenchment and consistent implementation of the market objective; that there be express confirmation of standing for organisations representing end users, including the EUAA; and funding to ensure that these processes are effective, balanced and fair to all interested parties. In relation to that, this is a multi-billion dollar a year industry. We are dealing with huge corporations that have virtually limitless resources. In taking these matters through the various bodies with respect to the market process, it is important that the interests of stakeholders, particularly electricity users, have adequate funding so that they can advocate on behalf of electricity users, given the size of this market and the immense consequences for electricity pricing decisions.

The EUAA also recommends that there be an insertion of checks and balances for the AER and AEMC; that there be clarification of the rule making process; and that the SCO provide a firm and detailed commitment to a process for addressing outstanding issues in relation to the NEM which have not been able to be addressed during the consultation process, including in relation to the mitigation of market power. Again, the mitigation of market power is something that should concern all of us. As I understand the submission—and I ask the government to confirm this—the role of the ACCC will be diminished. That concerns me greatly, because there is that potential for market power to be misused.

The EUAA has sought confirmation that there will be no material distinction in the application of the market objective in the national electricity market, notwithstanding that the rules regulate a power pool and are not confined to addressing access issues; that there will be no limitation on who may make a request for a rule pursuant to the sections of the bill or who may seek an investigation. Reference is made to section 90 for making requests and investigation pursuant to section 83, but that does not marry up with the bill in its

current form. I am sure that the minister's very capable advisers can sort that out.

Reference is also made to the new legal structure of the NEL/NER and whether it will provide appropriate legal support for the funding arrangements of the Advocacy Panel. What funding arrangements are there for this Advocacy Panel? If there is not going to be an adequate funding arrangement, I think it will be a bit of window dressing that will not fulfil its role.

Reference is also made to section 46 of the Trade Practices Act and whether it will continue to apply to market participants in respect of their conduct in the NEM. Can the government confirm to what extent the provisions of section 46 will be applicable or in any way diminished in terms of application for the NEM? I think that is a very important issue.

I undertake to provide the government and the opposition, and any of my other colleagues, with a copy of this submission, because I think this is an important document. It is well thought out. It makes a number of important points that I think go to the core of this bill, and my concern is whether this parliament will be asked to rubber stamp a piece of legislation. I know it has been a tortuous process with respect to the ministerial council and the advisory process, but that does not mean that we should roll over like Maxi the wonder dog and simply accept what has been determined. I think that, as legislators, we have an obligation (and in this place in particular) to thoroughly review what has been introduced here so that we can ultimately achieve the best possible outcome for consumers.

I acknowledge that the minister has had a difficult task with what he has had to deal with, but I do not believe that this is a good outcome. For instance, in its submission the EUAA considers that the objective should be stated in terms of end users, not consumers. This would remove any doubt as to whether the consumers in question must have a direct contractual relationship with a registered participant as well as ensuring that the interests of large purchasers of electricity and, in turn, the consumers of the goods and services, are taken into account. It gives a reference, 'see further, ACCC, Telecommunication Services-declaration provisions (1999), page 32' as an instance of how these matters ought to be taken into account.

The EUAA makes the point that this would have the added benefit of allowing all participants in the market greater certainty as to the application of the test, as there is established jurisprudence which considers the meaning of the 'long-term interests of end users'. It also states that the market objective is to be interpreted in accordance with economic principles and not simply the plain and ordinary meaning of the words. It should make it clear in the explanatory material with respect to the bill that the legislative intent is for the market objective to be interpreted in accordance with these principles, and it would be helpful to insert the word 'economically' before 'efficient' to take that into account. It is also stated that it needs to be clear that the market objective is not merely investment focused but considers the overall efficient functioning of the market. The issue of investment is important. We do not want to reach the situation which existed in California a number of years ago which was disastrous for consumers. I do not think anyone wants us to go down that path.

The EUAA goes on to say that the broader approach would be to continue to encompass concepts such as efficient investment but also incorporate issues such as demand side management, the efficient dispatch of generators and the use of embedded generation as well as the efficient operation of NEMMCO itself. All these matters are important to the future of the NEM; indeed, most, if not all, are part of the MCE agenda for reform.

I know that the Hon. Sandra Kanck has been a very passionate advocate for demand side management. I think that is something which governments have forgotten and which policy makers have put to the side as an important factor in the policy mix, and that we have not seen enough emphasis on demand side management and on necessary conservation measures—even if it is something as simple as the Hon. Sandra Kanck has proposed in legislation with respect to solar panels on a home not having their light blocked in terms of basic planning laws. They are the sorts of things that can make a real difference and cumulatively can make a very real difference in demand side management.

The EUAA also notes that tests such as the 'long-term interests of end users' have previously been implemented only in relation to bottleneck monopolies. But the EUAA seeks confirmation that there will be no material distinction in the application of this test in the NEM, notwithstanding that the NEL/NER's regulate a power pool as well as addressing access issues. That is another question that I believe the government ought to answer.

The EUAA refers to the interaction between the market objective and the EUAA's view that the proposed clause that relates to the market objective unnecessarily dilutes the market objective. At the very least, it considers that it should follow more closely the language of other parts of the bill to avoid potential uncertainty as to the interpretation of either clause which may be created by the exclusion of the words 'price, quality, reliability, safety and security' from the bill. The potential for such uncertainty also highlights the need for specific confirmation that the market objectives are to be interpreted in accordance with economic principles.

The EUAA is also concerned that the market objective is diluted by other provisions in the bill. The AEMC must not make a rule for or with respect to any matter or thing specific in items 15 to 24 of schedule 1. The EUAA says that it ought to take into account that factors are to guide implementing the rule-making test and that they are not overridden. It makes reference to section 87 in the draft to which they have referred. I apologise for not having that, because it does not marry up with the provision. But, again, I will provide a copy of this submission to the government, and go from there. In summary, the EUAA, in relation to the market objective, considers that it is vital that it must be stated in a consistent manner throughout the NEL through this bill to ensure that it is applied consistently and does not give rise to uncertainty.

The standing of end users is something that is raised by the EUAA in relation to, first, applications for judicial review. The association considers that the NEL should expressly provide that organisations clearly representing end users, such as the EUAA, have standing pursuant to this bill in order to avoid a potential repeat of the decision in the application by Orica IC Assets Ltd and Others re Moomba to Sydney Gas Pipeline System (a decision of 2004, the Australian Competition Tribunal Review Reports, page 2). In that matter the EUAA and the Energy Action Group Inc. were refused standing as neither was considered to be 'adversely affected' by a decision of the minister pursuant to the Gas Pipelines Access (South Australia) Act 1997 (noting that the term 'adversely affected' is the same as used in this bill). This view, if applied to the NEL, would be inimical to

the market objective with its clear focus on end users/consumers and contrary to the stated desire of the MCE of including end users/consumers in the reform process. So, what does the government say in relation to the whole issue of standing?

In relation to the checks and balances for the AER, AEMC and NEMMCO, reference is made to the Administrative Review Council, which is a body set up under the Administrative Appeals Tribunal Act 1975 to advise the Attorney-General about merits review, including the types of decisions for which merits review should be available. Two basic reasons are identified for merits review: to ensure that persons whose interests are adversely affected by a decision have an opportunity to have that decision reviewed; and to improve the overall quality of government decision making. These are audible—

An honourable member: Laudable

The Hon. NICK XENOPHON: Laudable and audible matters. Hopefully, it is audible for the government and, indeed, for the opposition. These are laudable matters that should be adopted. The ARC notes the following:

- the (original) decision-maker is an expert or requires specialised expertise;
- large numbers of people may take advantage of a review (resulting in increased cost and delay); and
- there is potential for the original decision to be subject to judicial review

They are not grounds for excluding merits review. It refers again to the Moomba to Sydney pipeline decision. The EUAA considers that it is vital that any review process ensures all affected persons, including consumers and consumer bodies, have a fair opportunity to participate on equal terms. That is a key issue.

There is a plea by the association that there be greater transparency in relation to decisions: that, in each case, the AEMC should publish its reasons, including on its web site, so that there is some transparency in the process including, for instance:

- that there should be a decision by the AEMC not to take any action in respect of a request for making a rule;
- the reasons why the AEMC considers a rule to be urgent or non-controversial pursuant to the bill, and the consequence of the AEMC concluding that a rule is urgent or non-controversial is an expedited rule-making process, with limited opportunity for stakeholder participation. Accordingly, the association says that it is essential that any decision which results in the curtailment of stakeholder consultation be transparent and robust; and
- the justification for why the AEMC considers that reasons given by a person or body in a written request for it not to make the non-controversial rule or urgent rule are misconceived or lacking in substance pursuant to the proposed section in the bill.

So, again, there is a need for greater transparency in respect of decisions. In relation to enforcement procedures, the association also asks that detailed reasons should be published. These are important checks and balances, and the association's concerns ought to be addressed by the government.

I have already touched on the issue in relation to the funding for end users as to whether these interests can be appropriately advocated and that there ought to be some appropriate funding. Reference is made to the Hardiman Principle, which the association discusses in its paper, and that the advocacy panel should grant funds for advocacy by representations for those that have an interest for the end users. At pages 11 and 12 of the association's submission, a number of recommendations are made about the method of funding and allocation. The point is made at the end of page 12:

> Representatives of energy supplies should not be involved in allocating funds

Obviously, there is a clear potential conflict of interest.

Page 13 of the submission, under 'Other Issues', in relation to the reliability panel, states that the association considers that the reliability panel should be bound by the market objective in performing its functions and in exercising its power. So, there is that template for that. In relation to the rule-making process, it refers to proposed section 87, subsections (1) and (3). But, again, the nomenclature is out, unfortunately. It is unnecessarily confusing and creates considerable scope for future uncertainty. What does the government say in relation to that issue? In the association's view, a threshold test should be created to set out a minimum standard which a proposed rule must meet. There should also be provision to effectively mandate a rule change in certain circumstances. The appendix to the paper makes some suggested amendments to that.

In relation to dealing with market power, the association also notes that all reformed electricity markets are very susceptible to the exercise of extreme market power. I acknowledge that the government introduced and got legislation through in relation to abuses of market power, as well as providing significant fines and penalties. I do not think there have been any in relation to that. It is very difficult to enforce that in terms of getting the evidence. However, I believe that, if there are some structural reforms in the overall framework in which the bill is set out, that would make it easier to deal with issues of the exercise of extreme market power. The association strongly recommends that the AEMC be required to conduct a review into this issue within the first 12 months of its operation. The association is currently looking into the whole issue of market power in the NEM.

That is a precis of the concerns expressed by the association, and a number of suggested drafting changes have been made. I think these are important matters that the government must address. I do not think this parliament ought to be a rubber stamp for legislation about which many, who are concerned about the operation of this market for the benefit of consumers, have very serious reservations.

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

STATUTES AMENDMENT (DRINK DRIVING) BILL

In committee.

(Continued from 4 April. Page 1412.)

Clause 4.

The Hon. P. HOLLOWAY: I refer to the matter raised by the Hon. Nick Xenophon last evening. The legislative changes for drink driving will be highly publicised using television, radio, print and internet communications and will be subject to normal government approval processes. The government recognises the importance of legislative changes to the driving public and will ensure that the public education campaign is implemented prior to changes coming into effect,

giving motorists warning of upcoming new laws. The public education campaign will be highly visible and delivered in a way that will be clearly understood by motorists.

Information will also be provided on the Transport SA and SAPOL web sites. The government undertakes mass media road safety advertising on a regular basis. The new legislative provisions will play an important part in delivering the message about the impact drinking and driving has on road trauma. SAPOL will be involved in the development of advertising and public education campaigns for the proposed new legislative changes regarding full-time mobile RBT and immediate loss of licence. SAPOL will be responsible for the enforcement of the new legislation.

As part of phase 1 road safety reforms introduced by the government in 2003, an effective an extensive communications campaign was undertaken using television, print and radio for the introduction of limited use mobile random breath testing. A communication campaign preceding the introduction of full-time mobile RBT will complement previous advertising.

Clause passed.

Clauses 5 to 7 passed.

Clause 8.

The Hon. P. HOLLOWAY: I move:

Page 4, after line 23—Insert:
(4) In subsection (3)—
Metropolitan Adelaide has the same meaning as in the Development Act 1993.

This is an in-house amendment and is consequential on new subsection (3) passed in the House of Assembly. Due to an oversight, this part of the amendment was not inserted in committee in that house. It is purely a technical matter.

The Hon. R.I. LUCAS: We support the amendment.

The Hon. SANDRA KANCK: I did not even know this amendment existed, so I have no comment.

Amendment carried; clause as amended passed.

Clauses 9 to 11 passed.

Clause 12.

The Hon. P. HOLLOWAY: I move:

Page 7, line 39—After 'subsection (2)' insert:
or, if the member of the police force giving the notice is satisfied that, in the circumstances, it would be appropriate to postpone the commencement of the relevant period, at a later time specified in the notice (which must be not more than 48 hours after the time at which the person is given the notice)
Page 8, after line 19—Insert:
(13) Commencement of the relevant period applying under a notice of immediate licence disqualification or suspension may be postponed in accordance with subsection (12)(a)(i) subject to any conditions specified in the notice.
(14) The Commissioner of Police must establish procedures to be followed by members of the police force giving notices of immediate licence disqualification or suspension under this section for the purpose of determining whether the commencement of the relevant period should be postponed under subsection (12)(a)(i) and the conditions (if any) on which the postponement should be granted.

This is an in-house amendment and gives effect to an undertaking by the Minister for Transport to the House of Assembly that the government would consider making provision for the rare circumstance where a driver has tested positive in a location far from their place of residence. This provision, in conjunction with the subsequent amendment, will enable police in certain circumstances to temporarily delay, for up to 48 hours, the commencement of the disqualification.

These two provisions will empower the Commissioner of Police to establish criteria and define the circumstances under which an immediate licence disqualification or suspension may be delayed and, where appropriate, impose conditions—for example, that the postponement is to commence 12 hours after the person was detected, in order to allow the level of alcohol in the person to dissipate; the requirement that the person pass an alco test prior to being allowed to drive; and to specify by what route the person is to travel, or a particular destination, such as the nearest regional centre. Those amendments came out of discussions in the House of Assembly, and they are also matters raised by the Hon. Sandra Kanck during the second reading debate.

The Hon. R.I. LUCAS: As indicated by the minister, I understand the shadow minister for transport, the member for Mawson, has been involved in discussions with the government and its representatives. This is a compromise amendment and he has indicated on behalf of the Liberal Party support for the amendment.

Amendments carried; clause as amended passed.

Clause 13, schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

RAILWAYS (OPERATIONS AND ACCESS) (REGULATOR) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a second time.

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

Leave granted.

The *Railways (Operations and Access) (Regulator) Amendment Bill 2004* ("the Bill") legislatively formalises the assignment of the Essential Services Commission ("ESC") as rail regulator in this State.

The ESC commenced performing the functions of rail regulator on 18 March 2004, when the Governor assigned the functions of rail regulator to the ESC by proclamation, in accordance with her powers under section 9(1)(a) of the *Rail (Operations and Access) Act 1997* ("the Act"). The Bill entrenches the ESC as rail regulator under the Act.

The Act establishes the role of regulator, pricing principles, rules for negotiation of access and procedures for arbitration of rail access disputes. Previously, a senior officer of the Department of Transport and Urban Planning was appointed as regulator. The Act was introduced to ensure rail operators, other than the track owner/operator, can offer rail services to customers and compete with the owner/operator by obtaining access to the rail network on commercial terms. It establishes an access regime consistent with National Competition Principles and with Part IIIA of the *Trade Practices Act 1974* of the Commonwealth.

The role of the regulator under the Act is to monitor and oversee access matters, determine pricing principles and information requirements, and refer access disputes to arbitration.

The amendments contained in the Bill are in accordance with the Government's objective to separate technical and safety regulation from economic regulation. This separation has occurred with other industries, for example, gas and electricity industries where the ESC undertakes economic regulation and the Office of the Technical Regulator provides technical and safety regulation. The ESC has been established as an independent economic regulator with the primary objective to protect the long term interests of South Australian consumers with respect to price, quality and reliability of essential services. In line with this, the Bill entrenches access regulation for intrastate rail from Transport SA to the ESC.

The Bill—

· defines the rail regulator under the *Rail (Operations and Access) Act 1997* as the Essential Services

Commission established under the *Essential Services Commission Act 2002*; and

- assigns to the regulator the function of monitoring and enforcing compliance with the Act (other than Part 2, which relates to construction and operation of railways); and
- requires the regulator to provide an annual report to the Minister, and requires the Minister to have the report laid before both Houses of Parliament.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Railways (Operations and Access) Act 1997*

4—Amendment of section 4—Interpretation

This clause inserts a definition of ***regulator*** into section 4 of the *Railways (Operations and Access) Act 1997*.

5—Substitution of Part 1 Division 6

This clause repeals the current Division 6 of the *Railways (Operations and Access) Act 1997* and substitutes a new Division 6. That Division, in proposed section 9, provides that the Essential Services Commission is the regulator under the *Railways (Operations and Access) Act 1997*. The proposed section also provides that the regulator has the function of monitoring and enforcing compliance with that Act (other than Part 2).

Proposed section 9A provides that the ESC, as regulator, must provide the Minister with an annual report of the work carried out under the *Railways (Operations and Access) Act 1997* for the preceding financial year. The Minister must have the report laid before both Houses of Parliament within 12 sitting days of receiving the report.

The Hon. R.I. LUCAS secured the adjournment of the debate.

PRIMARY PRODUCE (FOOD SAFETY SCHEMES) (MISCELLANEOUS) AMENDMENT BILL

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

STATE RESCUE HELICOPTER

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement on the State Rescue Helicopter made by the Minister for Police and Deputy Premier on 9 March 2005.

ADJOURNMENT

At 6.30 p.m. the council adjourned until Wednesday 6 April at 2.15 p.m.