LEGISLATIVE COUNCIL

Tuesday, 11 April 2017

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:18 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and community. We pay our respects to them and their cultures, and to the elders both past and present.

Bills

ELECTRONIC TRANSACTIONS (LEGAL PROCEEDINGS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (JUDICIAL REGISTRARS) BILL

Assent

His Excellency the Governor assented to the bill.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Auditor-General Supplementary Report, 2015-16—Consolidated Financial Report Review

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Report on the Review of the Assisted Reproductive Treatment Act 1988
Regulations under the following Acts—
Historic Shipwrecks Act 1981—General

By the Minister for Police (Hon. P.B. Malinauskas)—

Variation Agreement to the Approved Licensing Agreement between the Minister for Consumer and Business Services Ubet SA Pty Ltd.

ANSWERS TABLED

The PRESIDENT: I direct that the written answers to questions be distributed and printed in *Hansard.*

Ministerial Statement

ASSISTED REPRODUCTIVE TREATMENT ACT REVIEW

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:24): I table a copy of a ministerial statement on the Assisted Reproductive Act 1988 made in another place by the Minister for Health.

QUEENSLAND CYCLONE RECOVERY ASSISTANCE

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:24): I table a copy of a ministerial statement on Cyclone Debbie made in another place by the Minister for Communities and Social Inclusion.

NORTHERN ADELAIDE IRRIGATION SCHEME

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:24): I table a copy of a ministerial statement on the Northern Adelaide Irrigation Scheme made in another place by the Minister for Agriculture, Food and Fisheries.

Question Time

VENTURE CAPITAL FUND

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): I seek leave to make a brief explanation before asking the Minister for Manufacturing and Innovation some questions.

Leave granted.

The Hon. D.W. RIDGWAY: During last year's state budget the government announced that it would establish a venture capital fund, yet the fund is still not up and running. My questions to the minister are:

1. Can the minister guarantee the venture capital fund will be fully operational before the 2017-18 budget is handed down in June?

2. How many people were shortlisted for the position of fund manager for the venture capital fund?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:25): I thank the honourable member for his important and sensible questions today. At our last budget we made the single biggest investment we have ever made in innovation in South Australia—$80 million of new money that included a whole range of things: $7.5 million towards the Future Industries Institute at the University of South Australia; $10 million towards an Early Commercialisation Fund that is up and running; and the centrepiece, a $50 million venture capital fund, a state government backed venture capital fund that will invest with private equity to support venture capital and innovation in South Australia.

We have a team that has shortlisted the people and the companies who have applied to be fund manager. I believe the shortlisting has occurred. Of course, I take advice on probity and do not involve myself as the process is happening. My understanding is that we are down to negotiations with a preferred bidder. I will double-check but I think it is a matter of weeks before that will be finalised. If that is not the case I will come back and provide a more accurate response but my understanding is that we are a matter of weeks away from that preferred person or company being the fund manager.

VENTURE CAPITAL FUND

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): I have a supplementary question: how many people or companies were interviewed for the position of fund manager for the venture capital fund?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:27): I don't have the exact number. I believe it is in the order of one or two dozen different groups or individuals who were interviewed to be the fund manager. If it is wildly different from that I am happy to bring back a response.

VENTURE CAPITAL FUND

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I have another supplementary question: who was on the interview panel for that selection process?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive

Transformation, Minister for Science and Information Economy) (14:27): There was a range of people. I think Dr Andrew Dunbar from the department was on the interview panel, Raymond Spencer, the chair of the Economic Development Board was certainly involved in the selection process, as well as Alistair McReadie who, of course, gave advice to the government, through a RedFire Consulting report about how the government would look to respond to this, a couple of years ago, which we did in a very big way in the last budget.

VENTURE CAPITAL FUND

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I have a final supplementary question: how much money has been spent on the recruitment process for appointing the fund manager?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:27): I don't have the figures on that. That is the one element that I will have to take on notice and bring back for the honourable member.

UNLOCKING CAPITAL FOR JOBS

The Hon. J.M.A. LENSINK (14:28): I seek leave to make a brief explanation before asking questions of the Minister for Manufacturing and Innovation about unlocking capital for jobs.

Leave granted.

The Hon. J.M.A. LENSINK: In August 2014, the government announced the establishment of a $50 million Unlocking Capital for Jobs program which was to assist small to medium-size enterprises to secure commercially viable loans as part of the Our Jobs Plan, which was meant to help Holden workers maintain or gain employment. According to the government's overview, Unlocking Capital for Jobs was meant to create or retain ongoing SA jobs in the small to medium enterprise sector and leverage $250 million in new financial accommodation. My questions to the minister are:

1. How many companies, other than the pilot study, has the government assisted through Unlocking Capital for Jobs?

2. How many applicants have applied for assistance under the program and, as part of that, how many Holden workers has the program assisted?

3. How much money, excluding the pilot study, has been leveraged under the program?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:29): I thank the honourable member for her questions. It seems that the opposition is falling into a welcome habit of asking sensible and relevant questions.

The Unlocking Capital for Jobs Program is a program that is administered by the Treasurer; however, I am happy to refer your questions to the responsible minister for the program and bring back an answer to the series of questions that you have put on the record.

UNLOCKING CAPITAL FOR JOBS

The Hon. J.M.A. LENSINK (14:29): Supplementary question: is the minister saying that he doesn't actually have any briefing or any understanding of the program to even attempt to answer any of my questions?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:29): It is a pity that the sensible questions seem to have now come to an end with that supplementary. It is a difficult thing for those opposite, who have never come close to being in government, to understand the concept of ministerial responsibility. Of course, I am aware of the program, but I would not want to give an

answer that is not as accurate as it possibly can be, so I will refer those to the minister responsible so that there can be a full and as accurate as possible answer brought back.

UNLOCKING CAPITAL FOR JOBS

The Hon. J.M.A. LENSINK (14:30): Supplementary: is the minister refusing to answer questions? Given the fact that he is Minister for Manufacturing and Innovation, is he saying that he has no understanding of this program?

The PRESIDENT: That question does not arise out of the answer. The minister has already said that he doesn't know.

The Hon. J.M.A. Lensink: Go on, give it a go. That is hopeless, absolutely hopeless.

Members interjecting:

The PRESIDENT: Order!

BOEING

The Hon. S.G. WADE (14:30): I seek leave to make a brief explanation before asking the Minister for Employment a question in relation to Boeing.

Leave granted.

The Hon. S.G. WADE: Last week, the Premier announced that 250 technical and advanced research positions in a new Boeing hub will be established, with support from the state government, through Investment Attraction South Australia and Defence SA. My questions to the minister are:

1. How much taxpayer money is being spent to secure the agreement with Boeing?

2. What support is Defence SA providing to Boeing?

3. How much of the Investment Attraction Fund has been used?

4. Is the agreement with Boeing different to that with other companies which were successful in securing funding through the Investment Attraction Fund?

5. Will all of the jobs created be secured from the South Australian workforce?

6. Can the minister advise the extent to which some of the jobs are being relocated from Queensland?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:31): I thank the honourable member for his array of questions. Again, this is one where I am happy to provide some information, and particularly, as the honourable member correctly pointed out, concerning the Investment Attraction Agency, which rests with my very good friend and that great advocate for South Australian business, the Independent Liberal member for Waite, minister Hamilton-Smith, who is a good egg and a great advocate for this state.

He is doing fantastic work for South Australia, attracting business here and attracting jobs for South Australia. He has a real passion for this state and he is doing a fantastic job. I welcome the opportunity to be able to reinforce the good work that he is doing in attracting business to this state—the great work that he is doing. As the Hon. Stephen Wade pointed out, there will be 250 new jobs. I am glad the honourable member is applauding the work that the Independent Liberal, the member for Waite, is doing. In terms of the details on the amount of money, I think it has been made very clear over the last couple of weeks that, no, we won't disclose that.

These are commercial-in-confidence arrangements. States bid against each other to attract these sorts of things. I know the Hon. Stephen Wade doesn't understand business very well at all, but under his line of questioning, I think he would have us reveal exactly how much we used to attract other companies, which would put us in a terrible position in terms of being able to do this in the future against other states. It might be that when the Hon. Stephen Wade is announcing another

Liberal policy they will disclose every bit of money and the exact terms and details upon which they would seek to attract business here.

He can get up and say that is not their policy, but if he refuses to do that we can only assume that this is another one of those policies that they have offered here and now. I applaud the Independent Liberal member for Waite, minister Hamilton-Smith, for the work that he is doing in this state. It is, firstly, his ministerial responsibility, his portfolio area, so I won't go into great detail on those, as I tried to explain earlier but which fell on deaf ears. Secondly, these are commercial-in-confidence agreements that we wouldn't disclose and put ourselves at a competitive disadvantage. That would be crazy to do that, no matter what the Hon. Stephen Wade would have us do.

BOEING

The Hon. R.L. BROKENSHIRE (14:34): Supplementary based on the minister's answer: is the minister saying that what the government, through the Premier, said just a few years ago was that they would not have bidding fights with other states to get jobs to South Australia? Is the minister saying that that policy has now been changed?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:34): I thank the honourable member for his question. The fact of the matter is that, today, other states attract businesses through incentives, and we would be doing the people of South Australia a disservice if we didn't.

BOEING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:34): Supplementary: over what time frame will the 250 jobs be created? If Boeing does not honour its part of the agreement, are there clawback provisions in the funding arrangement?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:35): Again, we revert back to the Leader of the Opposition. He is showing, today, why he is Leader of the Opposition—good, sensible questions; very good, sensible questions. Again, this isn't directly in my portfolio of responsibilities. I am very happy to seek an answer from the Independent Liberal member for Waite, the Hon. Martin Hamilton-Smith, and bring back a reply for this area that he is responsible for.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! Will the honourable Leader of the Government please desist.

Members interjecting:

The PRESIDENT: Order! Show a bit of respect for your colleagues who are waiting to ask a question. The Hon. Mr Ngo.

INNOVATION VOUCHER PROGRAM

The Hon. T.T. NGO (14:36): My question is to the Minister for Manufacturing and Innovation. Could the minister tell the chamber about the recent recipients of grants funding through the Innovation Voucher Program?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:36): Certainly. I thank the honourable member for his good and well thought out question. The government is committed to supporting innovation in small and medium-size enterprises, including helping them to collaborate with research and development providers in South Australia. The popular Innovation Voucher

Program provides grants of between $1,500 and $100,000 to companies to assist with projects that support productivity or industry diversification in priority areas for the state.

Through a recent round of the program, support has been provided, totalling some $233,000, to five projects, which have included: a $50,000 grant to Cunninghams Balaklava, a family-owned business that is set to develop a new cost-effective device that will help farmers chemically treat their own grain safely and accurately. Their business will work with Berry Engineering to develop an electronic prototype device that will apply the correct volume of chemical treatment to broadacre seed for fertilisation and protection.

It's a very good project. I recently had the opportunity to meet with Shane Cunningham while in Balaklava a week or so ago, who told me that they expect this innovation will enable farmers to reduce the volume of chemical treatment by about 20 per cent, creating very significant savings for farmers. It was also exciting to hear of their innovative products that they are now looking to take on as a result of this government's support.

WBC Group Holdings was successful in a $50,000 Innovation Voucher Program grant for a project with Flinders University to undertake research and to develop a prototype wireless switch that can be integrated into WBC's innovative modular wiring product for residential and commercial buildings. The project represents a significant opportunity for WBC Group Holdings to further differentiate their unique wiring systems, which could attract new global customers. These new products will not only provide an exciting new product offering for the market, but growth opportunities for local manufacturing.

Glacier Cooling also received a grant to work with the University of South Australia's Barbara Hardy Institute to undertake the development and validation of a cooling unit that can be applied to both commercial and industrial uses. The cooling unit will use indirect cooling to enable natural CO_2 refrigeration systems to be applied efficiently in climates with warmer temperatures. I am advised this project will assist the company in meeting the increasing regulatory pressures to deliver a product that meets the growing market demand globally for more sustainable and cost-effective refrigeration technology.

A grant of $40,000 was provided to Common Sense Surf Company for a project with Flinders University to undertake testing and validation of different shark deterrent methods at the location of Neptune Island. Should the test results be successful, this will provide scientific validation of the product's effectiveness for the worldwide surfing market.

Finally in this round, Australian Orthopaedic Fixations received a $43,000 grant to undertake the development and commercialisation of new orthopaedic upper limb implant plates with improved comfort and reliability. The company will be partnering with the Institute for Photonics and Advanced Sensing and Device Synergies. This project represents an opportunity for the company to achieve important commercialisation requirements to deliver an improved product to global markets using advanced titanium 3-D printing in this high-value manufacturing process.

We know that innovation has the potential to boost our industry, create new industries and attract investors and jobs to South Australia. This is crucial if we are going to continue to grow as a global leader in areas of strategic importance like high-tech manufacturing. Through the Innovation Voucher Program, the government is delivering the support required to ensure that some of our state's small to medium-size enterprises are able to take full advantage of technologies available to diversify their products and services. This latest Innovation Voucher Program suite of grants will deliver positive outcomes for the companies involved, and I look forward to being able to update the chamber as they progress and as their technologies take place.

INNOVATION VOUCHER PROGRAM

The Hon. A.L. McLACHLAN (14:40): Supplementary: how is success defined by the government when giving these grants? Who makes the assessment: a committee or individual departmental officers?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:40): We regularly review

our grants programs. I think the Frost and Sullivan report had a look at a number of our grants programs. I have talked in this chamber before about the Frost and Sullivan report that looked at (I don't have the figures in front of me at the moment) the massive leverage that has been made off grants like Business Transformation Vouchers and Innovation Voucher Program grants, which have many times over stimulated sales and revenue. We do go through independent validation of our grants programs, and certainly the recent Frost and Sullivan review showed them to be extremely successful.

CHARACTER PRESERVATION ACTS

The Hon. J.A. DARLEY (14:41): I seek leave to make a very brief explanation before asking the Minister for Police representing the Minister for Planning a question regarding character preservation acts.

Leave granted.

The Hon. J.A. DARLEY: The Character Preservation (Barossa Valley) Act and the Character Preservation (McLaren Vale) Act were assented to in late 2012. Both had a provision for a review five years from the commencement of the act. Can the minister advise when the review will commence, what preparations are being made to conduct the review and by whom?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:42): I thank the honourable member for his questions. Naturally, I will be more than happy to take the questions on notice and ensure that the responsible minister in the other place gives a response accordingly.

AUTOMOTIVE WORKERS IN TRANSITION PROGRAM

The Hon. A.L. McLACHLAN (14:42): I seek leave to make a brief explanation before asking the Minister for Automotive Transformation a question.

Leave granted.

The Hon. A.L. McLACHLAN: On 28 March, in response to my question, the minister committed to finding out whether the worker tracking options paper for the Automotive Workers in Transition Program is finalised. Can the minister advise the chamber why the longitudinal tracking of such an important program is only now being considered, when the program was launched by the government back in December 2013? What drove this need to consider longitudinal tracking? In other words, what has changed?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:43): I thank the member for his questions. Certainly, the Automotive Workers in Transition Program had a slow take-up when it was initially launched. I have been to a number of the big, and also the small, supply chain companies.

Of the 74 tier 1 and tier 2 supply chain companies that we have identified, I have visited quite a number, and certainly, at least from a year ago and before, many workers in those companies had not really thought about the reality of what was going to happen when Holden, and also Toyota, who we are in the supply chain of in South Australia, stopped manufacturing. That is why we have continued to do work in terms of attracting people to this scheme to become involved. As we are now getting closer, and there is a date in late October when Holden will cease manufacturing, we have seen a significantly increased take-up of people involved in those schemes.

I think I answered your question earlier, that we will be looking at how we track the workers, how they have used the government services and what has happened to them afterwards. A longitudinal study, by its definition, is not something that you complete in a few months. Certainly, in the very early stages there was not a huge take-up, but it is now something that, as I think I have outlined before to honourable members in this chamber, we are looking at doing.

NORTHERN ADELAIDE IRRIGATION SCHEME

The Hon. J.E. HANSON (14:44): My question is to the Minister for Water and the River Murray. Will the minister please update the chamber on how the government is supporting and expanding the horticultural industry in the Northern Adelaide Plains region?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:45): The honourable member asks a very important question, and I thank him for it because it is very important for Adelaide, particularly the north of Adelaide, in terms of prospective jobs for the future. The government recognises the great capacity and expertise that exists in our horticultural industry in the Northern Adelaide Plains region, and how very important it is to grow the capacity for the social and economic future of those local communities.

The South Australian government is proposing to deliver large volumes of affordable recycled water to the Northern Adelaide Plains through the Northern Adelaide Irrigation Scheme (NAIS) in order to achieve this outcome. This additional water has the ability to transform the region into the national leader, and the intensive high-tech food production industries to support existing industries to expand and become more competitive, as well as drive employment growth and attract new skills and talent into our state.

Members of the industry would have access to this water to support an increase in horticultural production and exports, transforming the region into the national leader in intensive, high-tech food production, as I outlined, and in March of this year Primary Industries and Regions (PIRSA) submitted an expression of interest to the Australian government's National Water Infrastructure Development Fund for $45.6 million in funding to support the development of the infrastructure required for the NAIS.

If the NWIDF funding is secured, the state government, through SA Water, will co-invest $110 million in this project. A decision on the NWIDF funding, I am advised, is expected mid-year, perhaps a little bit earlier, and it is now timely for all of us in this place and outside to begin an effort of lobbying our federal colleagues to ensure that the federal government sees the importance of this project, and that the fund is the ideal investment vehicle for that—the National Water Infrastructure Development Fund (that is what its purposes were when it was set up).

So, I encourage all members, and not just those opposite, to dip into their federal colleagues to make sure that they understand the importance of this project at a state level, particularly for the north of Adelaide, and how it will fit fairly and squarely into the sights of that funding stream. It is an opportunity that I do not think Northern Adelaide would like us to let go. It is a scheme they have welcomed and a scheme they wanted to see brought to fruition. Industry is on board. Yesterday, Mr Jordan Brook-Barnett, state manager of AUSVEG, said that:

> We welcome it as a critical investment in Adelaide's north. For a long time the growers up there have been desperate for water necessary to grow for the future and this is a significant investment at $110 million. Clearly we're on board with Team SA, we'd like to see the federals come to the table...

NAIS is ready to go and just waiting on federal funding. With that federal government commitment to funding, construction of the NAIS can begin later this year, with the intention of recycled water flowing to irrigators from December 2018.

The combined investment of $155.6 million will be used to, first, upgrade the Bolivar Wastewater Treatment Plant to produce an additional 12 gigalitres of recycled water a year suitable for irrigation, an increase of about 60 per cent on what is currently produced, I am advised. Water distribution infrastructure will then be constructed north of the Gawler River to establish a major newer export-focused, high-tech horticultural production area.

This infrastructure will be designed and constructed to enable future expansion as demand increases and access to export markets grows, and in the future additional investment will enable the development of infrastructure to deliver an extra or additional eight gigalitres of recycled water a year from the Bolivar Wastewater Treatment Plant, taking the total of recycled water through this system up to 20 gigalitres.

This would further expand the region's horticultural industry and could provide water to the Barossa, for example, to support expansion of wine grape growing. NAIS supports the Northern Economic Plan by creating jobs for the Northern Adelaide Plains and outer northern suburbs of Adelaide. It also aligns with the state government's economic priorities of premium food and wine produced in a clean environment and exported to the world, growth through innovation and unlocking our resources, energy and renewables.

Producing fresh, premium food to meet changing consumer needs and ensuring a reliable and sustainable supply to meet global demand are two significant challenges facing Australia's horticultural industry in the 21st century. NAIS can assist with both of these challenges, and I look forward to a positive response from the federal government in the short term.

NORTHERN ADELAIDE IRRIGATION SCHEME

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:49): Can the minister explain what has happened to the Spanish consortia, the 1,000 hectares of glasshouses and the 5,000 jobs he spoke of only just a matter of months ago in this chamber?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:50): I thank the honourable member again for a sensible question. It is amazing how they are leading off with them today. It's fantastic.

The preferred proponent is still in the running, of course, but our understanding was that the model that provided 20 gigalitres of water for the Northern Adelaide Plains, which we had developed, as the honourable member clearly remembers, was predicated on a tripartite arrangement between the state government, the commonwealth government and SA Water, with each contributing approximately $76.5 million.

As that process gained momentum, advice we were receiving from federal connections indicated that it was unlikely that the full amount required to support the 20-gigalitre project would be secured, at least in the first tranche. Based on this advice, we developed an alternative approach to the NAIS project, which meant that the state government would be contributing more financially through SA Water, and we reduced the ask of the federal government. We understand that might get looked on more kindly, from the granting process.

As I said in my answer to the honourable member's question, the initial infrastructure will be constructed—if this proposal is supported by the federal government—with a capacity to, at a time into the future, deliver 20 gigalitres, allowing for the scheme's expansion in the future when export markets are established and when production is well established. It may be easier to go back to the federal government and ask for more assistance at that time, having got stage 1 up and running.

As I said, the first step is to bring 12 gigalitres of recycled water for irrigation each year through NAIS to develop high-tech, high-value intensive horticulture north of the Gawler River. This enables time for export markets to develop, to prove up the project and to establish a stronger track record to go and ask the federal government to assist us down the track to take water out to the Barossa, as I said in my original answer to the question from the Hon. Justin Hanson.

They are not mutually exclusive. We are being agile in presenting the best case we possibly can to get their support, and we look forward to their contribution. And let's give credit where it's due: the federal government gave the state $2.5 million to work up the business case, as I think I have said in this place previously, and in my meetings with the Hon. Barnaby Joyce and the Hon. Senator Anne Ruston they were giving us supportive views and indeed supported the business case funding, and we are very grateful for that. It is for those reasons that I expect, with the trimmed down version of the grant request, that we should look forward to some positive announcements from the federal government in this space.

STATE ENERGY PLAN

The Hon. R.L. BROKENSHIRE (14:53): I seek leave to make a brief explanation before asking the Leader of the Government Business in this house some questions regarding the government's announcements with respect to the state's energy crisis.

Leave granted.

The Hon. R.L. BROKENSHIRE: In March, the Weatherill Labor government announced its fix-it plan to the state's power problem. The largest item of expenditure announced at the time was $360 million, most likely unfunded, for a 250-megawatt power plant—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: What, you had a lazy $360 million sitting in the coffers? Come on! The largest item of expenditure announced at this time was $360 million for a 250-megawatt power plant which, by the way, sir, we have been advised will sit idle most of the time. My questions to the minister therefore are:

1. Is this government plan the cheapest or greenest way of guaranteeing supply to South Australia?

2. When the government was coming up with its plan, was any consideration given to supporting a proposal that the New South Wales government and power company TransGrid have already been out publicly advocating for, namely, to build an interconnector between South Australia and New South Wales?

3. According to a PwC report, which is available on the TransGrid website, this interconnector would cost an estimated $500 million—for which I understand minister Hunter's friends, the commonwealth government, would be prepared to look at partnership arrangements—and would provide a transmission capacity of 650 megawatts in each direction. Modelling in the PwC report also indicates the interconnector would decrease the average price in South Australia by around $16 a megawatt hour—much needed relief, if it occurred. Can the minister tell the parliament what modelling has been done on the government's new gas-fired plant and the proposed battery storage facility and what the modelling tells us about future energy costs here in South Australia?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:55): I thank the honourable member for his questions. Certainly, when this plan was being developed, cabinet took a lot of advice—a lot of expert advice, as the honourable member would appreciate from his very, very brief time in cabinet a very, very long time ago. I will not talk about what cabinet discusses, but I think it is safe to say that the government considered a very, very wide range of options before coming up with the elements of the plan, based on a lot of expert advice.

The honourable member also asked about the interconnector with New South Wales. Sadly, the Hon. Rob Lucas did everything to scuttle, to raise the price that he got when he sold off South Australia's power assets—

Members interjecting:

The PRESIDENT: Minister, sit down. You don't want to get in the way of this discussion, so just let them talk it out and then you can get up and continue your answer. Minister.

The Hon. K.J. MAHER: Thank you, Mr President. As has been pointed out in this chamber, there is a big difference between our plan and the alternatives, because there aren't any alternative plans. Certainly, in terms of the interconnection that the honourable member raised, I think it was half a million dollars that the government provided for a study on interconnection with New South Wales, which we would have had by now if it were not for the Hon. Rob Lucas trying to pump up the price of the sale of ETSA all those years ago, when the honourable member who asked the question may well have been in cabinet. So yes, of course that has been considered, and there is a study for that and it does not mean that it can't occur sometime in the future.

STATE ENERGY PLAN

The Hon. R.L. BROKENSHIRE (14:57): Supplementary based on the minister's answer: does the minister agree with other experts who say, now that the Pelican Point second gas turbine will be fired up, that the $360 million the government has committed to this mothballed stand-by system is now obsolete and unnecessary?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:57): No.

BRIDGES

The Hon. J.S. LEE (14:57): I seek leave before asking the Minister for Road Safety a question about South Australian bridges.

Leave granted.

The Hon. J.S. LEE: Outlined in the *Northern Argus* on 8 February, it was reported that three bridges located on Farrell Flat Road, Clare, which are within one kilometre distance of one another, have been an ongoing issue for road users. An overpass previously used by the railways and now occupied by the Riesling Trail, along with two typical culvert-style bridges, are considered to be dangerous for users, especially when two trucks pass one another on the small bridges.

Several accidents have occurred due to the challenges and inability to pass safely over the bridges. Since the forced partial closure of the South Road overpass, a review of South Australian bridges was to be conducted by the state government. With these three bridges in the Clare Valley labelled as state government roads, the Clare and Gilbert Valleys Council put forward a motion to the state government to prioritise the upgrade of the two culvert-type bridges, but to date no works have commenced. My questions to the Minister are:

1. Can the minister confirm when the state government intends to inspect the safety of these bridges for users?

2. Can the minister confirm what consultation he has had with the Minister for Transport and Infrastructure about the status of the three bridges?

3. When does the government intend to respond to the Clare and Gilbert Valley Council's concerns and advise them of when the bridges will be assessed?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:59): Let me thank the honourable member for her questions. Honourable members present would be well aware that only recently the South Australian cabinet was in the Clare and Gilbert Valleys area, talking to a range of different people within the local community.

The country cabinet process, of course, is an initiative that comes under the Brock agreement and is one that the government is upholding in full. As part of that exercise, getting out in regional South Australia has been incredibly productive in ensuring that the cabinet has a direct link with regional communities in South Australia, something that we are very proud of and we believe is delivering great results for regional South Australians generally.

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: During the course of last week's country cabinet, I understand and am aware of the fact that there were a number of opportunities where the Minister for Transport, who of course is the minister responsible for DPTI bridges generally, was in regular contact with local members of the community discussing a range of road and infrastructure issues. It would not surprise me if this is an issue in the local area that was raised with the honourable minister from the other place, but since those questions that the Hon. Ms Lee asks pertain to matters that fall within his portfolio area, I am more than happy to take those on notice and ensure that she gets a response in due course.

CLAMPING AND IMPOUNDING LAWS

The Hon. G.E. GAGO (15:01): My question is to the Minister for Police. Can the minister update the council on the effectiveness of laws allowing police to clamp and impound cars since they were strengthened in 2010?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:01): Let me thank the honourable member for her question and acknowledge her ongoing commitment to community safety generally.

As this council would be aware, in October 2010 the government significantly strengthened legislation allowing police the power to impound or clamp cars for a number of prescribed offences. These offences include dangerous driving, drink or drug driving, driving while disqualified or without a licence, repeat driving unregistered and damage to property, including graffiti. Dangerous driving will not be tolerated on South Australian roads, and strengthening the laws has sent a clear message to the community that the government and South Australian police are cracking down on those who endanger innocent lives behind the wheel of a car.

Since 2010, police have been actively utilising these extended powers provided by the government and the parliament. Police have clamped or impounded nearly 45,000 vehicles, with drivers of these vehicles facing charges for serious driving offences. I have no doubt that the laws have had an impact on deterring hoon drivers and improving road safety. In fact, we have seen a 35 per cent reduction in the number of people caught hoon driving over the course of the last four years.

Yesterday, at the instruction of the Commissioner of Police, two cars and a motorbike were publicly crushed to remind the community that dangerous driving will not be tolerated. Since 2010, 11 vehicles have been publicly crushed, plus those ones from yesterday—an action taken to raise public awareness about the seriousness of dangerous driving offences. One of these vehicles had been involved in a street racing offence in Port Augusta, while the drivers of the motorbike and other car had been charged with drink or drug driving and driving unlicensed.

The majority of cars that are clamped or impounded are returned to their owners, sold with proceeds going to victims of crime or destroyed in a more discreet manner. Legislation allows police to dispose of a vehicle subject to forfeiture or if impounded and not collected within two months. Last year, 6,313 cars were impounded or clamped in South Australia. Of these, 60 were uncollected and sold at auction, 487 were uncollected and destroyed, three were sold at auction at the instruction of the Commissioner of Police, five were released to the sheriff and the remainder were released back to the owner.

The last public crushing took place in the 2013-14 financial year and, as such, the Commissioner of Police and I felt it was time for a highly visible reminder of our road safety laws through a public crushing. With the Easter long weekend approaching, bringing with it a heightened road safety risk, there is no better time to remind drivers about the consequences of dangerous driving. The act of a public crushing sends a strong message to the community that offences such as hoon driving, dangerous driving and drink and drug driving are unacceptable and will be dealt with accordingly.

As stated, the driver of one of the cars, which was publicly crushed yesterday, was charged with drug driving. While the incidence of hoon driving has dropped in recent years, we are seeing an increasing number of people being caught with drugs while driving. These offenders face having their cars clamped and impounded, while also facing other serious penalties. Drug driving is an issue that I am particularly passionate about addressing. While police will continue to use their powers within these laws to come down hard on drug drivers, we also have a range of other policy and enforceable measures in motion to address the rise in drug driving on our roads.

The state government is determined to drive a decline in drug-driving behaviours. We have achieved significant declines regarding drink-driving. We have seen a substantial shift in community attitudes towards drink-driving. It is now increasingly important that we repeat the same success with respect to drug driving. The strengthening of our dangerous driving laws has certainly contributed to improving road safety in South Australia and police will continue to utilise their powers to maximum effect. The message is clear: drug driving will not be tolerated.

Last year, of course, was the lowest year in the state's record keeping in terms of road deaths. We had the lowest road toll in calendar year 2016 that we have had in our history. We have

to try to repeat that effort, but that demands continuous improvement, which is why every effort is necessary to ensure that our roads remain safe.

CLAMPING AND IMPOUNDING LAWS

The Hon. K.L. VINCENT (15:06): Supplementary: how many drivers have been found with cannabis in their system during roadside drug tests, and did any of these positive cannabis tests occur in people with disclosed medical conditions or disabilities where medical cannabis is a known treatment?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:06): Driving with cannabis in the system, regardless of the intent around its use, does remain an offence. We know that drug-driving tests, as they currently stand, can test for a number of drugs. One of those is cannabis, so no doubt those drug-driving statistics that I have referred to previously in this place would relate to those people who do get caught with cannabis in their system. I don't have at hand a breakdown, in terms of those drug-driving statistics, as to what percentage of them are people who are caught with cannabis in their system, but I will seek to obtain that information and pass it on to the member.

CLAMPING AND IMPOUNDING LAWS

The Hon. M.C. PARNELL (15:07): Supplementary: in relation to the public crushing of hoon vehicles, are they really public crushings? Was it advertised? Can you buy tickets somewhere? You mentioned about four times that it was a public crushing. I don't recall ever seeing any notice inviting me along. Are they seriously public crushings or is it simply just a media event?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:08): Thank you to the honourable member for his question. If the honourable member is particularly interested in attending the next crushing, I will try to facilitate an invitation. The event was held yesterday at a facility which has the equipment to do the crushing. It was very much public, as was evidenced by the presence of the media. The media widely broadcast the event generally. If there are members within this place who are keen to witness the next crushing, I am happy to facilitate their attendance. Being a legislator in this place who was present when the legislation was passed, I don't think that's an unreasonable request and I would be more than happy to facilitate it.

CLAMPING AND IMPOUNDING LAWS

The Hon. K.L. VINCENT (15:09): Supplementary: since the government commenced crushing cars as a penalty for dangerous driving, has there been a reduction in the number of people charged with dangerous driving related offences?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:09): To the best of my knowledge we have seen a rise in drug-driving offences over recent years irrespective of these particular laws. Drug-driving stats, generally speaking, have been on the rise even though we have seen a decline in drink-driving statistics and that is why we need a holistic response to the challenge that is drug driving.

FIRE DANGER RATINGS

The Hon. T.A. FRANKS (15:09): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about fire danger ratings.

Leave granted.

The Hon. T.A. FRANKS: Fire danger rating forecasts since 2010 have been provided by all state and territory governments according to a national fire danger rating system which has six different ratings. These range from low to moderate, high, very high, severe, extreme to catastrophic. I note that in terms of South Australia's provision of the BOM fire danger rating forecasts it does not provide a multiday forecast; indeed, it provides the fire danger rating the day before.

According to the CFS fact sheet on fire danger ratings published in October 2010, it states that these are:

To help you assess your level of bushfire risk and action to take, it is important that you understand the Fire Danger Rating.

It goes on to state:

The Fire Danger Rating is not a predictor of how *likely* a bushfire is to occur, but how dangerous it could be if it *did* occur. It should be used as an early indicator to trigger your plans.

These are released and issued by the Bureau of Meteorology through the CFS after 4pm the day before. I note that in Queensland, Tasmania and Victoria similar advice is released to the people in those states three days before. My question to the minister is: has South Australia considered a three-day advisory and will it consider this for the next fire danger season?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:11): I thank the honourable member for her question. The first thing is that the government remains absolutely committed to making sure that we provide all the appropriate levels of information that we can to the South Australian public generally to ensure that they can improve and maximise their state of preparedness in and around bushfires. We know that public communications to affected communities are critical if we are going to ensure that their readiness and preparedness for an event is adequate. The state government has invested in a large number of efforts over the years to ensure that that takes place, whether it be through public advertising campaigns on TV—there was an extensive campaign put in place this summer in and around bushfire readiness and preparedness.

Of course, the government has also invested in the Alert SA app, which is an outstanding service providing easy to use and readily available information regarding a whole range of different natural disasters or threats to the community. It is a simple to use app which, of course, is an important piece of technology in today's day and age where people's reliance on mobile phones is so high. There is a range of different efforts the government is putting in place to improve communications to the community around a range of different threats, including bushfire.

In respect to the fire danger rating system, it is a national system, as the honourable member referred to. It is one that I think is increasingly becoming familiar to members of the South Australian public, particularly those people who are in areas vulnerable to bushfire. As I understand it, a lot of research and effort has been put into that system over many years to make sure that it is clear and simple and easy to understand by members of the community who should have that information available to them.

In terms of the length of warning to members of the community, the information that is provided by the CFS, above all else, has to try to make sure that it is accurate. There is a good collaborative working relationship between our emergency services in South Australia, as is the case nationally, and the Bureau of Meteorology. That information is relied upon on a frequent and regular basis to ensure that the fire danger ratings that are issued are indeed accurate.

In answer to the honourable member's question, I can confirm that I have been advised recently that the CFS is working with the Bureau of Meteorology to try to put in place a four-day forecast on their website, which will help facilitate more forward planning and a greater degree of awareness and foresight for those people in affected communities in and around fire danger ratings generally.

FLEXIBILITY FOR THE FUTURE PROGRAM

The Hon. T.J. STEPHENS (15:14): I seek leave to make a brief explanation before asking the minister for employment a question about the public sector reform plan, Flexibility for the Future.

Leave granted.

The Hon. T.J. STEPHENS: On 28 February, the government announced Flexibility for the Future, a program, it says, that will offer greater flexibility in the public sector by allowing workers to reduce their hours, if desired, and seek to train new employees aged 30 or below to fill the gap. The government states that there will be no increased cost to the taxpayer. My questions to the minister are:

1. How many people does the government estimate will take up this offer of reducing their hours?

2. How many jobs does it estimate it will create for young people?

3. Does it estimate that any additional FTE jobs will be created from this reform?

4. How does the government intend to pay for training and mentoring systems for the new workers if there is no additional cost to the taxpayer?

5. What targets and time frames has the government set for itself with this policy, given our youth unemployment stands at a dire 16.9 per cent?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:16): I thank the honourable member for his questions and his interest in this policy area. I know that he, very genuinely, wants to make sure that all of those who wish to work have an opportunity to work. We might have different ways of going about our policies to get ourselves there, but I have no doubt about the sincerity of his wish to see that outcome.

In relation to the program in the public sector, trying to allow some flexibility for those who might be in the later stages of their career to work less hours and to have more hours for younger people, I know that that is a program that I believe is the responsibility of the minister for public sector reform. I don't have the details of any of the estimates or the costs, in terms of training, but I am more than happy to seek a response from the minister responsible so that I can inform the member about what is expected from the program and what the expected cost might be, given that we would both like to see more young people in jobs in this state.

EARLY COMMERCIALISATION FUND

The Hon. J.M. GAZZOLA (15:17): My question is to the Minister for Manufacturing and Innovation. Can the minister update the chamber on recent recipients of grant funding through the South Australian Early Commercialisation Fund?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:17): I thank the honourable member for his question and his interest in things innovative. I have seen the honourable member a number of times at St Paul's Creative Centre, which is a fantastic co-working space in Adelaide particularly focused towards our creative industries. It also hosts many great innovations in, particularly, the live music scene, of which the honourable member is a great supporter and participant.

The government aims to make sure that entrepreneurs have access to the resources, conditions and capital they need in order to bring great ideas to life and to get them to market. We have a range of programs that we run, including the Innovation Voucher Program that I mentioned to this chamber earlier today. We are offering our assistance in many different ways, particularly through initiatives that are tailor-made to give support to help start-ups and early-stage companies, not just those that are already well developed that are looking to innovate and do things differently.

The government has made a significant commitment to supporting innovation, as I outlined to the honourable Leader of the Opposition's first question today, in the 2016 state budget, with an allocation of around $80 million to support programs to do that. Commitments like the one the Leader of the Opposition asked about, the $50 million venture capital fund we will make available to eligible South Australian-based entrepreneurs and companies looking to commercialise projects with a strong potential to succeed nationally and globally.

Also, we have our $4.7 million investment to make Adelaide the first Gig City in Australia, offering affordable high-speed internet, up to 100 times faster than the national average, of speeds one gigabit symmetrical speed and up to 10 gig symmetrical speed in innovation precincts across metropolitan Adelaide. I note that one of those innovation precincts that will be the first to be connected is the St Paul's Creative Centre in the city that, a number of months ago, the Lord Mayor

and I helped lay the cable for to be connected up to the Gig City network, the SABRENet network that runs quite close to that centre.

Regarding the subject of the honourable member's question, the state government's South Australian Early Commercialisation Fund, it is a new competitive funding program designed to assist entrepreneurs and businesses to accelerate the commercialisation of ideas and services from proof of concept through to product development and early commercialisation. I was informed at an event at TechInSA just last week that the fund has already attracted over 180 applications of support.

In March, close to $1 million was awarded to a range of entrepreneurs to help them bring their ideas to market through the Early Commercialisation Fund. The projects coming through the fund hail from industries like gaming, e-commerce, artificial intelligence, as well as agribusiness, food and wine, medtech and biotechnology, to name just a few. We know that some of those in particular are key growth industries in South Australia.

The companies that are receiving assistance through the Early Commercialisation Fund are on track to become world-class success stories, and some of them are almost there. Take Inovor Technologies, which use local electronics and precision machining partners to produce small satellites for international markets. They have invented a new satellite design that offers superior fault tolerance compared to existing designs on the market. The Early Commercialisation Fund provides support to assist this to happen.

Myriota has received funding to help develop a low-cost transceiver with Internet of Things capabilities for businesses in remote areas or who transport goods over long distances. Their technology will enable things that the Leader of the Opposition will be very interested in, such as low-cost livestock water tank level monitoring for very remote cattle stations, using low earth orbit satellites. A trial of this project is now underway, and there are almost endless possibilities for this interconnected technology using low orbit satellites, particularly in remote areas, of which Australia has a lot.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: I will ignore interjections from all sides of the chamber, Mr President. ODD Games has received $150,000 to help them develop a framework that allows game companies to develop games across multiple platforms simultaneously for consoles, PCs, Macs and mobiles. This will enable developers to get their products to market much faster and free up their time for innovative game development and design. I congratulate Ben Marsh and his team at ODD Games, who I have gone out to visit at their dream factory where they have designed games. I think Monster Truck Destruction spent some time as the No. 1 game genre anywhere in the world. They are a real success story from South Australia.

Presagen, whose artificial intelligence system enables software to think and reason intelligently, much like people do, allowing it to automate a range of human-centric tasks, including processing of data and forms through to negotiating and communicating with customers. The AI and automation industry has been forecast to reach over $1 trillion by 2024, so we are very pleased that we can help this South Australian company to capitalise on what is a growing industry and will be a an increasingly big global industry.

Another company, Ailytic, received $218,000 to support the development of its artificial intelligence-enabled scheduling software. The WeChat social media platform has been developed by the Jiyu Group to allow companies to bypass traditional export channels and sell directly to Chinese consumers. The grant from the Early Commercialisation Fund will help accelerate the commercialisation of this innovative product.

Bzpay Holdings is another company that received $50,000 for a pilot project in a major bank of transaction settlement platform that will reduce risks to lenders and customers and lower transaction costs. Jackson Care Technologies received $50,000 to advance its mobility analytics software for carers to allow the mobility for carers to be greatly increased. Finally, Optima Mining Systems is developing rock chip extraction systems and also received $50,000 from the Early Commercialisation Fund.

These innovative South Australian companies are going to contribute much to our economy, and I am sure we will see a number of these companies make it big on the global stage. It is great that the state government can provide—

The Hon. J.S.L. Dawkins: Seven minutes.

The Hon. K.J. MAHER: Mr President, I get a seven-minute warning, when others only get a nine or ten-minute warning. I am deeply offended.

The PRESIDENT: Just finish your answer, minister.

The Hon. K.J. MAHER: We know that each of these groundbreaking innovations that come out of South Australia build on the sustainable and creative industries we already have and are key to a prosperous future for this state.

CHILD AND ADOLESCENT MENTAL HEALTH SERVICE

The Hon. K.L. VINCENT (15:25): I seek leave to make a brief explanation before asking questions of the minister representing the Minister for Mental Health and Substance Abuse regarding the Child and Adolescent Mental Health Service (CAMHS).

Leave granted.

The Hon. K.L. VINCENT: On 28 March in this place, I raised concerns and asked questions about the speculated axing of the specialist speech pathologists from CAMHS in this state. Following further calls and emails to my office in the past week and hearing it raised again on morning radio today, I would like to highlight further concerns around the CAMHS restructure.

On 23 March, at the 'Addressing child and adolescent mental health: The key to disrupting intergenerational disadvantage symposium', the chief executive of the state's newly created child protection department, Cathy Taylor, said, 'Child protection needs CAMHS.' She was saying this in the context that children and young people who have had multiple adverse events in their lives are more likely to need mental health support.

This is not surprising. It is understandable that children and adolescents known to the child protection system might need this mental health support and that professionals working in this area, as at CAMHS, need to be specially trained to understand the needs of these young people. Yet, concerns about the future of the Enfield CAMHS site in particular have been raised in the media today and by constituents contacting my office. My questions to the minister are:

1. Could the minister confirm or deny that the Enfield office of CAMHS will remain open?

2. Could the minister please confirm that specialist speech pathologist positions within CAMHS will be maintained?

3. Does the minister concur with the chief executive for child protection, Cathy Taylor, that CAMHS is essential for children and young people known to child protection?

4. Further to my question on 28 March, could the minister please allay fears that this restructure of CAMHS is not being undertaken to reduce costs to her department and to cost shift onto the National Disability Insurance Scheme and Department for Education and Child Development?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:27): Those being questions for the Minister for Mental Health and Substance Abuse, I am more than happy to take them on notice and ensure the minister from the other place gives an answer back accordingly.

Bills

EMERGENCY MANAGEMENT (ELECTRICITY SUPPLY EMERGENCIES) AMENDMENT BILL

Introduction and First Reading

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

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:28): I move:

That this bill be now read a second time.

The national energy market is failing South Australia and the nation. The events of 8 February 2017 are a key example of how the system is letting down South Australians. Rather than directing an offline generator into service to meet supply shortfall, the Australian Energy Market Operator decided that a large part of the South Australian community should be denied electricity in a time of extreme heat.

Another example is the events of 28 December 2016. In the lead-up to the statewide blackout, we contacted the Australian Energy Market Operator (AEMO) to express concern over the Bureau of Meteorology's forecast of severe weather conditions. However, no direct action was taken by AEMO to reduce the risk of outages from any damage to the South Australian power system.

There has also been a distinct absence of national leadership on energy policy, particularly over the question of a price on carbon. This uncertainty has led to a lack of investment in new electricity generation, and we now have a small number of power companies with extraordinary control over the market, pursuing profits at the expense of reliable, affordable power.

South Australians have faced blackouts throughout our history, and networks with above-ground infrastructure will always be vulnerable to weather interruptions. Consequently, no government can guarantee the power will never go out. However, South Australians have the right to expect the highest possible levels of electricity reliability and security.

On 14 March 2017, the South Australian government released a comprehensive energy plan to take charge of the state's energy future and deliver reliable, affordable and clean power for South Australians. Our plan is designed to put South Australians first and give our state greater control over our local energy security.

The Emergency Management (Electricity Supply Emergencies) Amendment Bill 2017 is an essential component of the energy plan. It will ensure that, in times of an electricity supply emergency, the minister responsible for energy will be able to make directions to protect the needs of the South Australian community. The minister responsible for energy will be provided with the power to declare an electricity supply emergency if it appears, on reasonable grounds, that the supply of electricity to all or part of the South Australian community is disrupted to a significant degree or there is a real risk that it may be disrupted to a significant degree.

There is an urgent need to enact these powers. We have seen a year of extreme weather events in South Australia testing the power system. On top of this, we are seeing coal-fired power stations closing, which reduces supply in the National Electricity Market. Without clear national policy settings, little or no investment is occurring to replace the generation that has exited the system. Relying on existing provisions for the management of emergencies is not an option. Electricity supply emergencies occur very swiftly.

Currently, where severe or prolonged electricity supply shortfalls occur, there are legislative provisions under the Essential Services Act 1981 (ESA) which enable the South Australian government to impose directions. The Attorney-General has responsibility for the administration of the ESA and the process requires the Governor to declare a period of emergency and declare energy as a specified essential service for that period of emergency.

On 8 February, there was less than two hours between the notice of a lack of reserve and the instruction by the Australian Energy Market Operator to the network operators to shed load. Under the current process, it would not have been possible to act quickly enough to avoid load shedding. This bill establishes an efficient process for the declaration of an electricity supply emergency, which gives responsibility to the minister responsible for energy and allows the government to rapidly respond to scenarios as they emerge.

The bill also provides that the minister responsible for energy may refer matters related to an electricity supply emergency to the Essential Services Commission of South Australia and the Technical Regulator for inquiry to ensure that South Australians are provided with transparent and efficient reporting on the management of these events. Exercising these powers will require the government to monitor conditions, to have information available to determine whether electricity supply is insufficient or likely to become so and to have information to inform the issuance of directions.

It is likely that persons holding information relevant to the exercise of the powers under this bill will be willing to share information. However, they may question whether they have the right to provide such information. To provide certainty, the bill includes the right to require information from any person to support the minister's functions, and at any time, not only when an electricity supply emergency declaration has been made. Electricity supply emergencies will be for a limited period of time. The bill recognises this and provides that an electricity supply emergency declaration can only apply for a maximum of 14 days. A declaration can only apply for a longer duration on the approval of the Governor.

During an electricity supply emergency, the minister responsible for energy may issue directions to a generator, retailer or the Australian Energy Market Operator. It is only intended that issuing directions is used as a last resort. The government expects that both market participants and the Australian Energy Market Operator will take all action available to them to ensure that the community's needs are met in a potential or actual electricity supply emergency.

An important feature of the bill is that it removes any doubts which may have arisen under the ESA that the minister may, in the context of an electricity supply emergency, issue specific directions to the Australian Energy Market Operator. This will include directions requiring AEMO to restrict the flow on the interconnector, requiring AEMO to direct other market participants in accordance with the National Electricity Law or requiring AEMO to suspend the spot market in South Australia. Providing these directions is a function the government should perform, if necessary, in an electricity supply emergency.

This is in fact complementary to the national electricity framework, which expressly contemplates governments performing such a role, with the National Electricity Rules requiring the Australian Energy Market Operator to liaise with jurisdictions in relation to the use of emergency service powers.

This bill represents one component of the government's energy plan. Overall, the energy plan will make our power supply more reliable and secure with the introduction of battery storage into the power system and increased energy security services such as inertia to help manage frequency disturbances. It is therefore considered appropriate that the bill provides a review and a report on these powers after five years of operation.

South Australians are calling for action to ensure reliable, competitive and clean power supply for all into the future. This bill represents an essential component of delivering these requirements to South Australians. I commend the bill to members and look forward to the second reading stage and to moving through the committee stage today. I note that the Leader of the Opposition, the member for Dunstan, committed this morning on radio that, 'We'll make sure that their legislation passes the parliament today.' I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Emergency Management Act 2004*

4—Amendment of section 2—Objects and guiding principles

This clause amends the objects to reflect the inclusion of the new provisions relating to electricity supply emergencies.

5—Amendment of section 3—Interpretation

This clause inserts a definition of *electricity supply emergency*.

6—Amendment of section 4—Application of Act

This clause provides for extra-territorial operation.

7—Insertion of section 26AA

This clause inserts a new section clarifying the interaction between powers relating to declared emergencies and powers relating to electricity supply emergencies.

8—Insertion of Part 4 Division 6

This clause inserts a new Division as follows:

Division 6—Electricity supply emergencies

27A—Interpretation

This section defines terms used in the Division.

27B—Minister may declare electricity supply emergency

This section allows the Minister responsible for the administration of the *Electricity Act 1996* to declare an electricity supply emergency if it appears to the Minister, on reasonable grounds, that the supply of electricity to all or part of the South Australian community is disrupted to a significant degree, or there is a real risk that it may be disrupted to a significant degree. A declaration lasts for an initial period of up to 14 days and may be extended once, with the approval of the Governor, for a further period of up to 14 days.

27C—Minister's power to give directions

On the declaration of an electricity supply emergency, and while that declaration remains in force, the Minister may give directions to any market participants that the Minister thinks are reasonably necessary to respond to the electricity supply emergency.

27D—Minister's power to require information or documents

The Minister may require a person to provide a document that the Minister reasonably requires—

(a) to determine whether there is, or is likely to be, an electricity supply emergency; or

(b) to plan for the future exercise of powers under the proposed Division; or

(c) to otherwise administer or enforce the proposed Division.

27E—Obligation to preserve confidentiality

The Minister must preserve the confidentiality of commercially sensitive information.

27F—Manner in which notices may be given

This section sets out how a direction is to be given or a requirement made under the Division.

27G—Delegation

This is a power for the Minister to delegate.

27H—Inquiries relating to electricity supply emergencies etc

This section allows the Minister to instigate an inquiry by the Essential Services Commission or by the Technical Regulator.

9—Insertion of section 28A

This clause inserts a new section as follows:

28A—Offences against Part 4 Division 6

This section sets out offences for the purposes of proposed Part 4 Division 6.

10—Amendment of section 32—Protection from liability

This clause provides protection from liability in respect of acts or omissions in making a declaration, giving a direction or carrying out a direction or requirement under proposed Part 4 Division 6.

11—Review and report

This clause provides for a review of the operation of the amendments after 5 years and a report to the Parliament.

The Hon. M.C. PARNELL (15:36): The Greens are pleased to support the second reading of this bill. After a year of mudslinging and some of the most appalling public debate and misinformation on a topic of national and global importance, it is good to finally have something concrete before us in the form of this bill. What has characterised the energy debate over the last year has been a convenient amnesia that invites us to forget why we need to change the way our economy functions. It invites us to forget why the world community agreed in Paris to slow our carbon dioxide emissions and move to decarbonise our economies, especially in the energy sector.

In its place we have seen grinning federal ministers passing around lumps of coal in parliament. Anyone who happens to agree with the consensus of the world's climate scientists is pilloried for being ideological. When a state like South Australia decides to take that consensus seriously, we are attacked for being reckless and irresponsible.

I have no doubt who will be judged by history as reckless and ideological. It is those who deny the reality of climate change. They are kidding themselves if they think propping up fossil fuels for a few more decades or longer is good public policy. It is not. It is disastrous for the environment, it is bad for the economy and it is certainly irresponsible for future generations.

The earth's atmosphere is not a rubbish dump for carbon emitted by burning fossil fuels: it is actually our planet's survival blanket, and we need to maintain it in a stable state if we are to have a stable climate, rather than the alternative, which is runaway global warming which will have irreversible impacts on all species, including us. That brings us to this bill, which is part of the state's new energy plan.

I have some serious reservations about some parts of the plan, but other aspects of the plan are deserving of support, and this bill reflects one of those aspects. The bill seeks to reassert a level of state control over a broken electricity market. It will not fix the market but it will provide an emergency power so that incidents such as the 8 February load-shedding incident will not happen again.

The ability for a state government to intervene in the market in emergency situations makes a lot of sense. It is not foolproof and it is not a fail-safe mechanism, but it is a sensible back to the future device. I say it is a back to the future device because back in the day the government owned all the generators, transmission, distribution and retail operations, therefore directing part of that network to behave in a certain manner was as simple as giving a direction.

Privatisation, on the other hand, has given the whip hand to large energy companies whose only objective is to maximise the return to its shareholders. It is not their objective to look after the interests of South Australia. Unless they are going to make a profit from us, they owe us nothing. We have seen that principle in operation with the owners of gas generators refusing to switch on even when it was clear that the power was needed. Unnecessary blackouts or load shedding was the outcome.

I would like to make a few remarks about the South Australian government's energy plan. I will start by saying that it is important to have a plan. It is important to have a state plan, but it is just as important, or even more important, to have a national plan. But we have seen on this issue that the federal government is absolutely hopeless. Their lack of a plan has resulted in a halt to new development, in particular, new electricity generation.

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order! The Hon. Mr Parnell has the floor.

The Hon. M.C. PARNELL: If you do not know where government policy is heading, it is much harder to get finance. The federal national Liberal government has been incredibly dishonest in its repeated claims that just about everything that ever goes wrong in the energy field must be the fault of renewable energy. But it is not all bad news because in spite of the policy vacuum at the

national level, the economics of renewable energy is changing at such a rapid rate that new projects are being advanced, including new solar, wind and storage projects.

Recent domestic solar installations have broken records in many parts of Australia and this is happening in spite of the fact that the feed-in tariffs are no longer available. People are putting up panels on their roofs because it makes economic sense to do so. At the grid level, we have seen the announcement from the Lyon Group of a $700 million battery and solar farm at Morgan in the Riverland, and that is on top of their smaller $250 million Kingfisher project in the state's Far North. The Riverland project would provide 330 megawatts of solar PV and 100 megawatts of battery, which would store 400 megawatt hours of energy.

Even as recently as today, the online news service *InDaily* is reporting that renewable energy generators are racing to get large-scale projects financed and built in time to fill the supply gap created by the closure of coal-fired power stations around the nation. Apparently, just today construction began on the 300-megawatt Bungala solar farm just outside of Port Augusta.

It is also reported today that a new 59-turbine, 212-megawatt wind farm, also just outside Port Augusta, is very close to financing and construction. There were six components in the state's energy plan. The first component was in relation to battery storage and a renewable technology fund. The government is promising to build a grid-connected battery of 100 megawatts—that is a good announcement. That is a good use of public funds.

There is also $150 million, half in grants and half in loans, to help support future renewable energy and storage projects. It is my sincere hope that one of the successful bidders for that money will be the solar thermal plant at Port Augusta. That is a project whose time has well and truly come. It is quite advanced. It has overwhelming support in the local community and it would be a brilliant project that would demonstrate to South Australians that renewable energy can generate electricity day and night.

The second component of the state's energy plan relates to government contracts for electricity used by government agencies. The government intends to use that buying power to attract new electricity generation to increase competition. According to the government's announcement, 75 per cent of that contract will go to a new generator and 25 per cent will go to dispatchable, renewable energy initiatives. I am not sure of the exact details of the tender arrangements, but projects like solar thermal at Port Augusta are crying out for government support.

The third component of the state energy plan, the state-owned gas power plant, is dubious at best. According to the announcement, this incredibly expensive $350 million or $360 million plant will only operate during emergencies and therefore it will not compete in the market with other generators. That begs the question of whether we are talking about a white elephant.

Having said that, we do need to acknowledge that there are other services that need to be provided to the electricity network, including inertia and grid stabilisation. The question remains, and I think I am in agreement with the government on this, the market is broken because the market does not properly value those services. The government, instead, is stepping in and using taxpayers' money to provide those services.

My feeling is that there is a better way of doing it. All of the states involved in the National Electricity Market should look at pairing contracts for supply of energy with secondary contracts for grid stabilisation, attach them to each other and make the generators provide these additional services as well, rather than taxpayers having to build a gas-fired power plant that will not generate a lot of electricity.

While we are waiting for that plant to be built, the government has talked about bringing in temporary generators, up to 200 megawatts worth. The talk has been around diesel-fired generators, such as the ones used in Tasmania. Again, I think the government could have looked at other options, especially when you had people like Elon Musk promising that he was going to get the batteries in within 100 days or it would be free. He was promising, I think, 100 megawatts, which is half of what the government is proposing to bring in in the form of temporary generation.

The fourth aspect of the state energy plan, gas exploration incentives, is probably the one part of the plan that I am most critical of. It is completely unnecessary. It is a complete waste of

money. The government is giving $24 million of taxpayers' money to gas companies to help them explore for gas, and this is on top of the original PACE grant of $24 million—$48 million of taxpayers' money handed over to some of the biggest fossil fuel companies in Australia. We are giving the big end of town a huge amount of money to help them make extraordinary profits for their shareholders.

The question is: who got this money? When you look at the recipient list it is the big end of town, it is the big donors to the old political parties, in particular. Santos has received most of the money: $5.82 million for the Senex Santos Cooper Basin pipeline project; $3.96 million for the Santos Cooper Basin refracture stimulation project; $6 million for the Santos Cooper Basin under-balanced drilling project; and $2 million for the first phase of the Strike Energy Cooper Basin deep coal project. On top of that, and one which is likely to be incredibly unpopular, is the $6 million for Beach Energy's Otway Basin exploration project, targeting conventional reservoirs.

The reason they have referred to conventional reservoirs is because they know that fracking is a dirty word in the South-East. I think the government is going to get a bit of a shock, because as people are looking at the gas industry in general, they are realising that it is not just fracking that is bad for their community, it is the whole of the gas industry. That $6 million—when you look at the Beach Energy statement to the stock exchange, they are hoping to get a 33 per cent or 32 per cent chance of success—a one-third chance of success. We have a two-thirds chance of blowing all of our money on a project that the people of the South-East do not want and are sure to object to in strong terms.

The Hon. R.L. Brokenshire: No social licence.

The Hon. M.C. PARNELL: The Hon. Robert Brokenshire interjects that they have no social licence, and that was the finding of the Natural Resources Committee. The point that I think all people in the South-East are well aware of is that just because the government says that any well is not going to be fracture stimulated does not mean that that is not going to happen. You think about it, Mr President: you drill a hole 3½ kilometres underground, and the gas, after a while, stops flowing, are you going to abandon that well or are you going to bring in Halliburton, with their fracking machines, and start fracture stimulating that well? Of course that is what you are going to do. You have sunk so much money into digging one of the deepest holes around, you are not going to abandon it just because the low hanging fruit has disappeared.

However, what is most remarkable about this aspect of the government's energy policy is that when you look at the government's own review of the PACE project—the PACE project is the one under which this money has been granted—they looked at it as recently as 2014, the review found that there was no evidence of market failure in oil and gas exploration and, therefore, no need to give taxpayer money to this industry. The review found that there was no evidence of market failure in conventional oil and gas exploration and it was considered that the funds available would not have changed company priorities.

The review found that exploration investment was already at high levels and companies reported that there were already 12 drilling rigs operating in the Cooper Basin and, therefore, funding was allocated to other projects and not to drilling. So, we have come a long way from a review of the government's funding of mining exploration projects deciding that there was no point putting money into oil and gas, to just a few years later giving them, in the most recent case, $24 million on top of the $24 million previously allocated.

The fifth government energy policy item was the energy security target, and this will force retailers to source a percentage of their energy from local generators rather than from interstate through the connector. We have no particular objection to that. That brings us to the sixth and final component, which is what this bill is all about. This bill provides the energy minister with emergency powers to intervene in the market in the manner described just a few minutes ago by the minister. I think most of us hope that this power will never need to be used. We hope that the participating jurisdictions in the National Electricity Market will get together and fix that market.

We hope that the federal government, either of this persuasion or the next, will develop a national policy that focuses on reducing carbon emissions in the economy and focuses on renewable energy and storage, and I hope that we get better state policies, ones that grasp the nettle and are not just half-hearted in relation to renewable energy but fully supportive of the energy revolution,

which is going to be renewables plus storage. You only have to look at the expert commentary from think tanks around the country: the future is in renewable energy plus storage. The only people who are saying that fossil fuels have a long-term future are those who are wedded to it through investment or through obligation.

With those brief remarks, the Greens are happy to be supporting the second reading of this bill. We look forward to the committee stage and I will have some questions to ask at that stage, as I am sure other members will, not the least of which will be how likely it might be that South Australia going it alone does not trigger other states deciding that they want to do the same thing. We could end up—if our Victorian and New South Wales colleagues had similar emergency powers—with an unholy tug of war over the interconnector.

It is very unclear who is going to win that battle, especially since, as I understand it, the interconnector is jointly owned by the transmission operators in South Australia, ElectraNet, and the transmission operators in Victoria. That is my understanding. I will certainly be asking the minister, when we get to that part of the debate, how this particular stand-alone state mechanism is going to fit into the national system. It is not a reason to not vote for it—in fact, it is a good measure and we will be voting for it—but I think there are some serious questions that mean that this should be probably a short-term measure rather than being seen as a long-term solution to the country's energy problems and the failings of the National Electricity Market.

The Hon. G.E. GAGO (15:53): I rise to support this bill. This bill is an important step in securing South Australia's energy future. It shows that the government is serious about taking control of our energy future and putting South Australians first. The events of 28 September 2016 and 8 February 2017 have shown that we can no longer rely on the Australian Energy Market Operator to ensure accurate forecasts of electricity demand or timely responses to emergency situations.

In the lead-up to the blackout on 28 February, I am advised that the government contacted AEMO to flag concerns about severe weather to come. However, these concerns seem to have gone unnoticed by AEMO, which did not take appropriate action to reduce the risk of outage. Their failures contributed to unnecessary blackouts in parts of the state.

The facts are clear, the national energy market is not working for South Australia. This government will no longer accept South Australia's energy security being at risk. It will not accept a national market that pushes prices up for consumers in South Australia. We are in this position because the federal government has wholeheartedly failed to develop and implement a coherent, effective national energy strategy. All we have seen at the federal level is the removal of any effective mechanisms to transition our electricity infrastructure to a 21st century system.

The federal Liberal government has tried to abolish the Clean Energy Finance Corporation. They abolished a market-based mechanism to address carbon pollution. They attacked the renewable energy target and then proceeded to cut that as well. All of these policy mechanisms were in place to help bring about certainty to the market, that Australia was a place that you could invest in in terms of the energy market.

Instead, we saw investment in both renewable energies and electricity infrastructure plummet. We have seen little or no investment in new power generation to supplant the loss of old, ageing and dirty power stations, the inability of the federal government to enforce a carbon emissions scheme, or price on carbon, and the lack of fairness and efficiency in the national market has led us to where we are today.

We can no longer expect companies to act in goodwill. Electricity companies that are constraining our supply are reaping profits from high power prices that South Australian homes and businesses can no longer accept. That is why the South Australian government has announced a thorough and comprehensive response to securing our energy future. Our response will secure our energy future while ensuring that households and businesses in South Australia are no longer reliant on the whim of the energy market operator, private companies or the shameful inaction of the federal government: a federal government that has demonstrated that it has absolutely no interest, I have to say, in supporting South Australia.

Time and time again, the federal Liberal government has sold South Australia out. We can see that with the way they would not support Holden and also the River Murray. It is disgraceful that the Liberal federal government has washed its hands of South Australia.

The Hon. I.K. Hunter: Don't forget the canoes.

The Hon. G.E. GAGO: And canoes. Under current legislation, in order to declare South Australia to be in a state of emergency there must be a meeting of the Executive Council, followed by the assent of the Governor of South Australia. We seek to remove the cumbersome process that is currently in place and replace it with an efficient procedure for engaging emergency powers in the future.

The amendment before us will give the relevant minister powers of direction over the market in the event of an electricity supply emergency. The minister can also issue directions to a generator, retailer or the Australian Energy Market Operator. This will ensure that every available measure is taken to secure our energy supply. This amendment is only one component of the government's plan to secure our energy future. Our plan will deliver a new state-owned gas-fired power plant to provide energy security for South Australia, as well as adding hundreds of new jobs to the state.

Our plan provides South Australia with the largest battery in the Southern Hemisphere, which will allow our state to store energy from our renewable sources of wind, solar and hydro. This electricity can be provided at peak times when demand exceeds production, adding stability to supply. Our government will also offer incentives to source more gas for use in South Australia and create more electricity generation, which will increase competition and put downward pressure on prices.

This amendment is an important tool within this plan to make sure that South Australians are put first. The production of cleaner, cheaper and more reliable energy is what a state needs, and this bill will ensure that our energy generation will be stable through times of emergency. It is a bold and urgent measure that this government is taking, and that is why I commend this bill to the chamber.

The Hon. K.L. VINCENT (15:59): I would like to briefly place on the record the Dignity Party's support for this bill and thank the government for the briefing that we received on this. We know that the government is, of course, fast-tracking this bill and urging compliance by the Legislative Council to pass this bill this week, when it has only been introduced to this chamber today. Of course, this is a far cry from usual procedure, but we are happy to do so when the circumstances call for it. Given the number of electricity debacles, for want of a more eloquent word, we have faced in this state in recent times, this is well justified, but we certainly would not want to see this become a habit.

The Dignity Party certainly supports the second reading of this bill and also confirms support for some of the comments by previous speakers, particularly surrounding the need for more holistic and comprehensive planning around South Australia's energy needs, especially when it comes to the need for increasing the use of renewable energy sources, given the real issues around climate change not only in this state but globally, of course.

However, we would also like the government to acknowledge that during the statewide blackout on 28 September 2016 one of us received calls and inquiries quite specific to another constituency, that is, people with disabilities and alternative communication needs, which demonstrated quite clearly to me that the government did not have an adequate procedural plan in process for the provision of that particular support.

During the briefing on this bill I also asked questions surrounding the safeguarding of electricity supply to houses where residents rely on electricity not only for convenience and comfort, but for life-sustaining equipment such as ventilators. I am awaiting answers from the minister and government on those localised solutions and would appreciate it if those answers could be provided at the committee stage.

In closing, while it is not specific to the nature of this particular bill, I think that we can gather from the events of the September blackout—where we had ministerial advisers knocking on the door of my office asking me to help them locate an Auslan interpreter, despite the fact that we had, of course, passed a change in this place to make sure that Auslan interpretation would be available for televised emergency broadcasts—that without the necessary planning and resourcing we can pass

as much policy and legislative change as we like, but we need to have that backed up by real resourcing and support. I hope that this will be the case with this particular change and would like to see that continue to happen in areas such as Auslan interpretation. With those few words, we support the bill.

The Hon. R.L. BROKENSHIRE (16:02): I rise to support the second reading of this Emergency Management (Electricity Supply) Bill. However, I am not going to be so generous to the government because it is time that quite a few facts are put on the table when it comes to issues around electricity and the determined and direct intent of this government over many years to ignore what was going on with the lack of an electricity plan in South Australia—ignoring the fact that people are battling to be able to put heaters on in the winter and air conditioners on in the summer for the simple fact that our power has become so expensive. For quite a period of time it was the most expensive electricity in Australia and, arguably, in the world, if not in real terms.

Also, from a business, industry and agricultural point of view—and I always put on the table the fact that my family are agriculturalists and irrigators, so we see firsthand just what has been happening with power costs—what this gets back to is that this government is now spending a lot of taxpayers' money on media propaganda and publicity to try to make it look like they are going to be the saviours of the big, bad failed plan of a national electricity grid and of a national electricity plan.

The unions have a fair bit to do with this as well, I might add. I will not let the unions off on this either. Unions like to say that they are the friends of the workers. Where has the union been over the years when it comes to applying pressure to the people in government who have failed to deliver reliable, sustainable, affordable electricity to the workers of those unions and to the businesses of those unions? People in South Australia have lost their jobs as a result of the fact that the Labor Party and the unions are so far in bed together that they would rather keep that bed relationship close than look after the workers. It is a fact, and I look forward to debating with the new member very often how I see a lot of the union movement in this state.

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: Yes, I have seen it firsthand. I have seen union delegates come in here and take seats in this council, and then they do everything other than work for the people they used to work for, because it is more important to look after the government. Let us get back to this debate and argument. I will not be deflecting too much at this point in time on that.

When the Liberals were in office, the fact is that there was a sale, a privatisation of electricity from ETSA to an overseas company. That is a fact. There is no denying that, and there is no denying the fact that I was part of that at that time, although if you listen to the Hon. Mr Hunter, it was me, me personally and alone, who privatised ETSA. That is what he says when he gets a chance. It was actually the parliament that privatised ETSA, democratically. Some of the former Labor members were part of the support of that democratic process.

The reason I raise that is that what happened afterwards when Labor got into office is they deliberately decided that they could win at least two elections by blaming the Liberals for the privatisation. This is factual. They did not care if it was going to cost the South Australian community a lot more money, as long as they could blame the Liberals and get back to another four years of the power and glory. That is what it was about.

At the time when they started this campaign, people said to me, 'Well, you privatised ETSA.' Yes, that is true, but this government, in a private market, can actually go ahead at any time it wants and build a competitive power generator. There is no law stopping them from doing that. I have said that time and time again, and the Labor ministers of the day said, 'No, no, it's all privatised now. We can't get involved,' only because it suited them not to get involved.

Let us just go back one more step. It was Professor Hilmer, with the Hilmer report, and the then prime minister, the Hon. Paul Keating, who set up the national grid and demanded that monopolies in states, government or private owned, were broken up into sections: generation, power and poles delivery, and retail. That was a federal agreement signed off by COAG.

I could see the intent of what the Hon. Paul Keating was trying to do then, and it made sense, providing there was cooperation and providing the politics was taken out of it. We ran an effective

and efficient national power grid, with the exception of Western Australia, of course, which is too isolated. It is to their benefit. As it is now, they have probably done better in many ways from that.

I know what the intent was, and it was an honourable intent, but did it deliver what it should have delivered? The short answer is no, it did not in entirety. When Pelican Point was being built I happened to be the minister for police, and I was briefed on what was going on down there, because there was protest after protest, to the point where on at least one occasion several police paddy wagons went down to Pelican Point and arrested people.

You will see that a coalition, a committee, or an action group was set up down at Pelican Point at the time. I understand that the Labor Party had a fair bit to do with that. In fact, they had a lot to do with that, because they wanted to cause what is often called absolute mayhem, again to suit their strategies when it comes to the privatisation. I could name the members involved, but I will not do that. I do not have to, but I can tell you that a lot of the people in that committee were direct members of the Liberal Party and were affiliated with this particular plan.

The point was that the government did not even want Pelican Point to exist because it did not suit them. Now, of course, when they get into trouble, 15 years later, and they do some polling that shows that on the issue of electricity they are going to get smashed at the next election, just on that one issue (and, believe you me, I do not think what we are debating today will fix that problem for the government), they come up with a plan, a rushed plan, a very late plan and a plan now that has a lot of question marks and a lot of 'please explains', some of which other colleagues and myself will question during the committee stage of this bill.

Pelican Point is now starting up the second phase of its generation plant. That has come since this plan for this $360 million stand-by gas turbine, government-owned, taxpayer-funded plant. We also hear AGL now saying that it will stop what it was going to do to increase some base load generation in this state because of this plan, and answers need to be put to this parliament on that. We also hear what my colleague the Hon. Mark Parnell said about the amount of money being put into urgent incentives to get more mining done.

Minister Koutsantonis, on this occasion, thinks it will not affect him and his government in the voting situation down in the South-East, but it may well because there are a lot of connections between the South-East and people who live in marginal Labor seats. The fact is that minister Koutsantonis, on behalf of the government, has ignored in its entirety a report from the Natural Resources Committee—ignored it in its entirety. While we were out there finalising the report, and once it was tabled, he was running around throwing money at mining companies interested in gas extraction and saying, 'Let's get on and frack in the South-East'.

In fact, when the Victorians put a moratorium on fracking over there, he said, 'Well, bring those mining companies over here and frack the South-East.' That is what minister Koutsantonis said, and totally ignored the fact that there is, first, no social licence for fracking in the South-East, which does not mean that you could not look at further fracking and gas exploration in the north where there are not the sensitive arguments that there are in the South-East, and I believe not the risk to the complex, sophisticated, pristine, multifaceted aquifers of the South-East.

What we have now is a lot of money being thrown at a problem. It is a plan, I acknowledge that, but it is a short-term, kneejerk reaction plan where a lot of pressure has been applied on certain officers who are public servants and others to get something up and running as quickly as possible because the qualitative and quantitative polls that the Labor Party do all the time are saying that people are blaming them now and not the Liberal Party for the situation with electricity.

Whether or not people think that it was right or wrong to privatise ETSA at the time, the fact is that we have seen the deliberate deterioration of alternative electricity supplies other than renewables—and I acknowledge that: other than renewables. In fact, we have gone ahead of the pack in renewables, and the left of this world and those who are totally focused on the greener side of the debate think it is wonderful that South Australia has 53 per cent.

In fact, they said only this week that they are already ahead of where they were planning to be, with 50 per cent renewables in the early 2020s, but at what cost? It will be at a massive cost for individuals and a massive cost for business, and people are saying to me that, if they were looking

at setting up a business in Australia at the moment, they would have to question whether or not they could come here based on what has happened with the cost of power and the unreliability of electricity in this state.

Just to give you a subset example of that, there are five of us who dairy farm on the Fleurieu Peninsula. For the first time ever, my family—and I expect the other four families too, as best I know—has had to put significant investment in to get 80 kVA generators because, when it comes to animal welfare, we can no longer run the risk of just relying on electricity availability through the network. We five dairy farmers are just one example. There are hundreds, if not thousands of businesses. Why should we have to make that investment when we should be able to rely on the government to oversee and manage?

We have the proof in the pudding here. If what we are doing here now is legal—and there is argument about that, whether it is acceptable with respect to agreements that have been signed with the national energy market, the regulator and the national energy plan—and I assume it is, it does put question marks over how we are going to get goodwill to continue the reliability needs from the Eastern States.

All of a sudden, we are going to be so-called self-sufficient and we are being told that we will not necessarily need the national grid in the future. We are going backwards in a way. Hopefully, it will prove to be of some worth. There are a lot of question marks about whether there is real long-term worth in what is being done here or whether it is more about getting over the March 2018 election.

Coming back to renewables, it is good to see thermal power and solar farms in Port Augusta being debated. I think there is now the possibility of a further $450 million injection into wind turbines with batteries to be able to help offset the infrequencies of power supply availability through wind farms. Why are we not discussing, as some people have discussed with me, other base load power opportunities? For some time, people have been raising with me the issue of nuclear energy. It used to be something they did not want to talk about.

I have been told stories about France. People have told me that you can go into a home in France where the lights are on and no-one is very concerned about the fact that those lights are on, even if maybe they should be turned off at that time, because nuclear energy in France supplies some of the cheaper electricity in First World countries. People have also told me that nuclear energy assists in the prevention of climate change.

We are looking at a waste repository. Most of us are open-minded about that and have been cooperative with the government, but we have not heard whether the government is into renewable energy and sustainable energy and limiting the issues around climate change, and what some people are now raising, and that is nuclear energy. Make no mistake, after being in office for 15 years, this government could have been working on an interconnector for at least the last 14 of those years. They blame the Hon. Rob Lucas because he wanted to get a better price for the privatisation.

There is one other aspect that I forgot to put on the public record in this debate when I spoke of Professor Hilmer and the then prime minister Paul Keating and his government's push for a national power grid and interconnectors and everything that goes with that, and that is that, over and above all of that, and the demand for breaking up monopolies like ETSA, is something called the State Bank. Because the opposition procrastinated for so long in privatising ETSA, one could say that at least $1 billion (and possibly quite a lot more) was not available in that sale because, to a fair extent, the horse had bolted by the time the then government got the chance to sell that power.

Further evidence of that is when the Hon. Jeff Kennett, who was the premier of Victoria at the time, got on with the privatisation of electricity there and reaped a massive return on that, which has helped to grow Victoria and Melbourne ever since. So, politics has played a very big part in why we are now debating this legislation. That is the history, but turning to the future, there is at least now some recognition of the fact that we have to do something.

We will support the opportunity requested by the energy minister to give him more powers, but we will keep absolute pressure on this government to make sure that they are serious now about doing something about one of the major impediments for South Australians. At the moment, people's contracts are finishing and they are on 17¢ per kilowatt hour off peak, and they are now going to

30¢ and 34¢ per kilowatt hour, seeing over double the cost of power at a time when most businesses are having to pull back on what they can get for their product.

This is a serious issue. I just wish the government had been far more proactive, far more into governance and far less into politics than they have been over the period. Wherever I go over the next 12 months, I will ensure that I put all the facts on the table to every possible person that I can talk to, to ensure that they understand that the problems with electricity that we all have in South Australia are put right back at the Labor government, because they deserve to cop the blame.

The Hon. J.M. GAZZOLA (16:21): I believe the majority of South Australians will be glad that action has been taken to secure South Australia's energy sector. We have been at the mercy of generators and the Australian Energy Market Operator, but this plan—an amendment bill—will minimise the potential of households and businesses facing or trying to cope with South Australia's power going out.

I welcome and support the Premier's plan, which is a multifaceted approach ensuring that we have energy stability in our state. This plan assists South Australia in having renewable energy available 24/7 through the battery storage of wind and solar, building our own gas-fired generator, providing backup power and the important assignment of new powers to our energy minister. The Emergency Management (Electricity Supply Emergencies) Amendment Bill will allow the energy minister to swiftly take control in emergency situations, as declared by the powers of the Governor. It is a vital key in achieving a more reliable and more secure power supply.

In 1995, I was elected the secretary of the South Australian and Northern Territory branch of the Australian Services Union. The ASU, along with energy unions nationally, opposed the privatisation of electricity assets. We were confronted in South Australia by the Olsen Liberal government's plan to privatise ETSA. The privatisation was wholeheartedly supported by *The Advertiser* and big business on the basis that competition in the energy sector would drive down prices and secure the energy sector. In the campaign leading up to the 1997 election, the Olsen Liberal government said to all that they would not be privatising ETSA. Having been returned to government, there was a backflip and the privatisation of ETSA was back on the agenda. As we know, ultimately it was passed.

Within 12 months of ETSA being privatised, the ASU alone lost hundreds of members through redundancies. The other energy unions also suffered significant job losses through redundancy. If my memory serves me correctly, in early 1999, 40,000 homes in Adelaide lost power so that the privateers could take advantage of prices in the market reaching the maximum cap of approximately $5,000 per megawatt hour.

To this end, it gives me no comfort to stand here and say to the Hon. Mr Lucas and now the Hon. Mr Brokenshire and the Liberal party, 'We told you so.' We argued that privatisation would lead to job losses, and we did not believe the claims of cheaper electricity for South Australians. Nor would it deliver energy security. It is always about profits over people.

We were of the view—and I still to this day strongly believe—that the privatisation of public assets is bad policy and bad law. Households and businesses in South Australia should not have to face a repeat of what occurred in the past six or seven months. In the absence of a coherent national energy policy, the Weatherill Labor government is delivering what the coal fuel Turnbull coalition government has failed to provide leadership on. I commend the bill.

The Hon. T.T. NGO (16:24): There has been a lack of national leadership on energy policy, particularly over the question of a price on carbon. The federal government has been missing in action. This uncertainty in the energy market has led to a lack of investment in new electricity generation and we now have a small number of power companies, with extraordinary control over the market, pursuing profits at the expense of reliable, affordable power. Throughout history, there have been blackouts. Networks with above-ground infrastructure will always be vulnerable to weather events.

Consequently, no government can guarantee the power will never go out. However, South Australians do have the right to expect that we have the highest possible levels of electricity reliability and security. On 14 March this year, the South Australian government released a comprehensive

energy plan to take charge of our state's energy future to deliver reliable, affordable and clean power to South Australians. Our plan puts South Australians first and gives our state greater control over our local energy security. We are already in the process of implementing it.

The Emergency Management (Electricity Supply Emergencies) Amendment Bill 2017 is an essential component of the energy plan. It will ensure that, in times of an electricity supply emergency, the minister responsible for energy will be able to make directions to protect the needs of the South Australian community. Under the bill, the minister will have the power to declare an electricity supply emergency if it appears, on reasonable grounds, that the supply of electricity to all or part of the South Australian community is disrupted to a significant degree or there is a real risk that it may be disrupted to a significant degree.

During an electricity supply emergency, the minister responsible for energy may issue directions to a generator, retailer or the Australian Energy Market Operator. It is intended that directions be issued as a last resort. The government expects market participants and the Australian Energy Market Operator to take all action available to them to ensure that the community's needs are met in a potential or actual electricity supply emergency. The bill requires a review of the changes after five years of operation and a report be tabled in parliament.

Overall, the energy plan will make our power supply more reliable and secure. It includes building Australia's largest battery to store renewable energy as part of a $150 million renewable technology fund. There has certainly been interest in the government's battery storage project, with 90 expressions of interest from more than 10 countries so far. These submissions are currently under evaluation. The fund is also to support other renewable energy projects that make renewables available 24/7. Half of the fund is for grants and the other half is for loans to eligible projects to support private innovative companies and entrepreneurs.

Building a gas plant is a crucial part of the state government's energy plan. The gas plant will be built and owned by the government and be able to provide stand-by power in times of emergency. This has become necessary as investment in new thermal generation has stalled. The generator will provide up to 250 megawatts of generation and will provide the inertia needed to stabilise local supplies.

This policy is backed up by the state government's goal to source more South Australian gas to increase our own self-reliance. South Australia has vast untapped gas resources. It is estimated the Cooper Basin alone could potentially supply Australia's energy needs for more than 200 years. This is why the state government is providing an extra $24 million through its Plan for Accelerating Exploration (PACE) scheme to incentivise companies to extract even more gas and create more jobs. This will increase the supply of South Australian gas into the local energy market, with South Australian energy generators, industry and households having first offering. The plan also includes an energy security target. The target's goal is to create new investment, to increase competition, put downward pressure on price and to provide more energy system stability.

To increase South Australia's self-reliance, retailers will be required to get a certain percentage from local generators instead of from Victorian coal through the interconnector. This target will come into operation on 1 July 2017. South Australians are calling for action to ensure reliable, competitive and clean power supply for all into the future. This bill represents an essential component for delivering these requirements to South Australians. I commend this bill to members.

The Hon. J.E. HANSON (16:31): As many members who have already spoken today have made clear, currently we have a national energy market that is failing South Australia and, indeed, I would say, the nation. As a rule, of course, it is not really unusual for blackouts to occur during, for instance, severe weather events. South Australians have experienced occasional blackouts throughout our history and I would wager that is the same for just about every jurisdiction around the world. However, every South Australian has the right to expect the highest possible levels of reliability and security.

What I would like to see from this debate today is some bipartisanship on this issue of critical importance to our state. I would hope to see some acknowledgement of the deep problems that embracing a 'business as usual' approach to our national energy market can pose for South Australia.

I hope to see the opposition support this government's plan in the interest of providing the certainty that we failed to see from the federal government on this issue.

As we witness coal-fired power station after coal-fired power station closing across this nation, the expectation of South Australians that we have a plan for the future is not only an expectation of their state government, but also at the federal government level. Sadly, of course, the federal government has no energy policy. It has no policy on carbon beyond grandiose stunts with lumps of coal that perhaps it would prefer, these days, we all forget. It is ruinously beholden to the interest of those who want to maintain the status quo in energy generation.

This has created uncertainty, not only for South Australians, but also for those businesses which may seek to invest in the energy market. This uncertainty has led to limited investment in new electricity generation and we now have a small number of power companies with extraordinary control over the market, pursuing profits, I would say, at the expense of reliable and affordable power and to the great detriment of the South Australian people.

Only a short time ago, in my work prior to coming to this place, I represented workers in large companies in this state who rely upon a consistent power supply: workers in Nyrstar in Port Pirie, Arrium in Whyalla and Adelaide Brighton Cement in Port Adelaide, just to name a few of those industries. A loss of power to these industries can have catastrophic consequences to the business beyond one day's trade or only a few hours of lost production. These industries support hundreds of workers and their families and would affect thousands more if they were to cease operations for weeks, months or forever.

During the blackouts of late last year and early this year, many workers and their families approached me and spoke to me about their concerns about the blackouts and how they were being affected. Many expressed concern to me for their jobs, some for the wellbeing of their aged parents or young children, and still others expressed concern for the future of the state itself. They were not interested in waiting any longer for a solution; they wanted action to be taken by the government now.

I am aware of a report by Business SA into the cost of blackouts to South Australian industry. This report stated that one four-hour blackout in this state incurred a cost of around $360 million in damage. While I cannot speak to the precise accuracy of the report by Business SA, it is clear that the grave nature of its conclusions underlines the seriousness of the concerns of the workers who spoke to me.

On 8 February 2017, we saw a key example of how the national market does South Australians over. Put simply, rather than directing an offline generator into service, the Australian Energy Market Operator decided that day, on a day of extreme heat for our state, that a large part of the South Australian community should be cut off from having access to power. This was, of course, entirely preventable, and we know that: we know that because the next day (9 February) AEMO decided to take preventative action and did order Pelican Point power station into effect to prevent load shedding in South Australia.

This patchwork approach to energy provision in this state by the national market cannot be allowed to continue. It is reckless and it is wrong. I am proud to be a member of a government that is seeking to take control of the energy future with a comprehensive plan that will deliver reliable, affordable and clean power for South Australians.

An honourable member: Crickets. That's all I can hear.

The Hon. J.E. HANSON: Crickets, indeed! Crickets in regard to plans. Based on the predicted regularity of failures in the national market, South Australians cannot continue to rely on existing—

Members interjecting:

An honourable member: Crickets.

The ACTING PRESIDENT (Hon. A.L. McLachlan): Order! The Hon. Mr Hanson, sit down for a moment. Can the members please behave, particularly the two leaders of the government and the Leader of the Opposition.

The Hon. D.W. Ridgway interjecting:

The ACTING PRESIDENT (Hon. A.L. McLachlan): Will the Hon. Mr Ridgway just calm down. The Hon. Mr Hanson has the floor. Show respect for your own member, the Hon. Mr Kyam Maher.

The Hon. J.E. HANSON: Normally I like crickets but not this time. Based on the predicted regularity of failures in the national market, South Australians cannot continue to rely on the existing provisions for management of emergencies. Electricity supply emergencies can occur very swiftly. This plan will ensure that in times of electricity supply emergency, the minister responsible for energy will be able to make directions to protect the needs of all South Australians. The minister responsible for energy will be provided with the power to declare an electricity supply emergency. This will allow the minister to act quickly in response to failures of the national market.

Furthermore, I am particularly proud to be standing behind a plan that has as one of its key features a plan to help resolve system reliability through stabilising South Australia's energy with an inertia supply and a new gas generator. The businesses and their workers that require stability of supply will rest easier knowing that in times of peak demand energy can be supplied to our state without the concerns of overseas or private profit being relevant considerations. This is a generator that will be owned, run and managed by South Australia. It will not be privatised by this government and it will not be subject to the whims of federal politics.

I also take pride in standing behind a plan that takes seriously the giant strides that are now possible in clean energy technologies. These are the new, sustainable and game-changing innovations in energy generation that this government continues to endorse and that until recently the Prime Minister of this nation was very happy to endorse also. South Australians look forward to our uptake of new energy technologies with excitement and anticipation. Indeed, we have seen the world take great interest in this government's openness to innovative energy solutions.

Of course, it is not all just buzz associated with certain prominent international entrepreneurs. We have already seen private investment in new energy solutions in the Riverland, previously referred to by other members, through the Lyon Group's investment in battery storage. This is the biggest project of its kind anywhere in the world and I have no doubt there will be more to come. That is what happens when you have a government that is genuine in its desire to support and attract investment in renewable energy generation.

It is clear that South Australians expect their government to act swiftly and decisively on the energy crisis that faces the state and South Australian businesses know that now is not the time to back away from the technologies of the future which have the capability to disrupt the existing order of the broken national energy market. Certainly not for the first time and certainly not for the last time, we have a conservative federal government that is absolutely determined to look backwards.

They insist on clinging to coal despite the undeniable reality that there is no future for coal power generation in Australia. We have a national energy market that could not be less concerned about honouring their obligations to South Australia and meeting the needs of our people and our industries. These circumstances demand that our forward thinking state government look to the future and take swift action, not just to embrace but to pursue and implement the technologies and solutions that will provide a secure future to the people of South Australia. I urge all members to support our plan, which will do exactly this.

Debate adjourned on motion of Hon. S.G. Wade.

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 2 March 2017.)

Clause 5.

The Hon. K.L. VINCENT: I move:

Amendment No 1 [Vincent–1]—

Page 4, lines 20 and 21 [clause 5(5)]—Delete subclause (5)

As members would be aware, for some time the Dignity Party has held concerns about this particular aspect of the bill. While we understand the intent of it—and I do not want to go into this in any great detail, as I think we have had this discussion a number of times in this place—and while we understand the government's intent is to make sure people cannot use the fact that they were intoxicated, either by alcohol or other drugs, as a defence to a crime, we are also concerned that this could adversely affect people with existing mental health conditions.

For example, let us say someone has pre-existing schizophrenia—without wanting to demonise any particular condition, just hypothetically—and they are under distress and lose control of their actions temporarily because they experience an active episode, so to speak, of their schizophrenia and they commit an offence.

If that person had had some alcohol or had even a small amount of drug in their system at that point in time, it is my understanding that they would lose, completely, the ability to say that they were not in complete control of their own actions at that time because of the fact that they were partially intoxicated, whether or not that alcohol or that drug was actually the cause of that offence. Our concern is that this could adversely affect people who may have real, legitimate existing mental health conditions. They need to have the opportunity to use that as a defence if that is the primary reason for them not being in control of their actions at that point in time.

I make it very clear that this is not about just anyone being able to say, 'I was drunk or intoxicated or under the influence, therefore I can't be proven guilty.' We are simply concerned about the people who have an existing condition, where the alcohol or the drug is not the primary cause for their action or their committing the offence, and therefore we would like to see this particular part of the bill removed.

We understand where the numbers lie at this point in time, and we understand that the Hon. Mr McLachlan, on behalf of the Liberal opposition, has moved a compromise amendment to say that a defence should only exist if they can say that the person was substantially impacted by the alcohol or drug. We will support that in the event that striking the defence out altogether does not eventuate. However, we urge members to see reason and see that while we understand the intent, we certainly do not want to see any people being able to use alcohol and intoxication as an excuse for a crime. I understand that there are people who could be adversely and unfairly affected by this move because of their legitimate and pre-existing mental health conditions.

While we can see where the numbers lie, and we are happy to accept something of a compromise with the Hon. Mr McLachlan's amendment, we would encourage members to consider this very important issue and how this move could impact those people with existing mental health conditions. Also, of course, it is hard to know whether the mental illness—for example, schizophrenia, as I just talked about—has led the person to consuming an intoxicating substance.

For example, if you are already experiencing an active manifestation of your schizophrenia—I feel like I am picking on schizophrenia, but I am just using that as a hypothetical example—and you are already perhaps not as in control of your actions as you would be, there is an argument to say that you could be more likely to consume alcohol and other drugs than you might otherwise be.

This is a very nuanced issue, and I think we need to consider very carefully how the different nuances could impact adversely and unwittingly and very significantly on people with mental health issues in this state. With those few words—or not so few, as it turned out—I move the amendment standing in my name.

The Hon. A.L. McLACHLAN: I thought I might just set out the Liberal Party's position, which has been correctly articulated by the Hon. Kelly Vincent. We will not be supporting this amendment. We have great sympathy with the reasons behind the moving of the amendment, and we thank the Hon. Kelly Vincent for her contribution in the previous part of the committee stage, which drew to the attention of the Liberal Party the manifest unfairness that can arise from the application of this government initiative.

We have sought to, as described by the Hon. Kelly Vincent, put forward a compromise version, whilst taking into account the government's views and the reasons the government has put

forward these amendments. I will speak more on those in a minute, but I certainly do not push back on the reasoning. Where we differ is in the outcome and the execution of attempting to address situations which—while the government might dispute this—I think are unintended consequences which result in manifest unfairness and go beyond what should be an appropriate response by the state in any circumstances to self intoxication.

The Hon. P. MALINAUSKAS: The government opposes this amendment. This amendment and amendment No. 2 delete provisions designed to implement the government's commitment to stop offenders who are impaired by illegal substances or alcohol from using it as an excuse for their actions. For this reason, amendment Nos 1 and 2 are opposed.

As explained in the second reading speech, statistics collected from a case file review indicated that almost a quarter of offenders who successfully used the mental incompetence defence were suffering from an impairment caused by drug-induced psychosis or from some substance abuse and dependence. The bill therefore includes new provisions to stop offenders whose mental impairment was caused by self-induced intoxication from utilising the defence of mental incompetence in part 8A.

Instead, the person would be dealt with intoxication under provisions contained in part 8 of the Criminal Law Consolidation Act. The Hon. Ms Vincent is seeking to remove these new provisions and to retain the current position, so that offenders who are impaired by illegal substances or alcohol can continue to use it as an excuse for their actions. These amendments, in the government's view, are opposed for good reason.

The Hon. J.A. DARLEY: For the record, I will be opposing this amendment.

Amendment negatived; clause passed.

Clause 6.

The ACTING CHAIR (Hon. T.T. Ngo): The Hon. Kelly Vincent, are you still going ahead with your amendment No. 2 to clause 6?

The Hon. K.L. VINCENT: I am happy to see all my amendments as consequential.

The Hon. A.L. McLACHLAN: I move:

Amendment No 1 [McLachlan–2]—

Page 5, line 37 [clause 6(3), inserted subsection (2)]—

Delete 'caused (either wholly or in part)' and substitute 'substantially caused'

As I indicated, the Liberal Party is seeking to accommodate the government's agenda in this matter but at the same time seeking to blunt the more unintended consequences which have been teased out in the early part of the debate. We did originally intend to insert the word 'substantially', but we have taken counsel that substantially is a word—

The Hon. M.C. Parnell: 'Significantly'.

The Hon. A.L. McLACHLAN: Sorry, we had 'significantly'—the Hon. Mr Parnell is confusing me and messing with my mind—and we are now putting 'substantially' in because that is the word, we understand, that is more commonly used throughout the criminal law. That is the reason why we have filed a second set.

The circumstances have been well articulated in committee. It is our view that there has to be some nexus between the consumption of a drug or alcohol and then the prevention from using mental impairment as impacting the mens rea in a subsequent trial in response to charges on a particular criminal offence.

The Hon. P. MALINAUSKAS: The government is opposed to this amendment. The amendment is inconsistent with the government's election commitment to prohibit anyone whose mental impairment was caused by self-induced intoxication from utilising the defence of mental incompetence. The government has consistently stated that this position is supported by the findings of the case file review conducted by the Sentencing Advisory Council, and it is for this reason that the amendment is opposed.

The Hon. J.A. DARLEY: For the record, I will oppose this amendment.

The Hon. M.C. PARNELL: The words in the bill as drafted I think potentially could have led to some very unjust outcomes. The words were that 'the mental impairment at the time of the conduct alleged to give rise to the offence was caused either wholly or in part'. Those words are pretty unforgiving, especially the words 'in part'. It means that only a small part of the mental intent needed to have been impacted by substance use for the defence of mental incompetence to be unavailable.

The Liberal amendment, on the other hand, uses the words 'substantially caused', so the mental impairment was substantially caused by self-induced intoxication. We similarly would have liked the word 'significantly', but if 'substantially' is a word that has more jurisprudence attached to it, then I think that works better, but it does soften the provision to make sure that those caught by it are those we want to be caught by it.

The people at whom this bill is really aimed are those who deliberately get themselves intoxicated and then try to rely on it to get out of their criminal responsibility. I think there is uniform agreement that we do not want that to happen, but there are areas of grey, and this is an area that I think has been improved by the honourable member's amendment, so the Greens will support it.

The Hon. R.L. BROKENSHIRE: Family First has deliberated on the Hon. Andrew McLachlan's amendments. We understand what he is trying to do, but we also understand what the government's intent is here with this legislation, and we will not support this amendment and support the government bill as it stands.

The Hon. K.L. VINCENT: Without wanting to repeat myself too much (but then I say that and proceed to repeat myself) the Dignity Party does support the Hon. Mr McLachlan's amendment. I think it does capture the intent of what we were trying to achieve with our amendment, and that is to make sure, as the Hon. Mr Parnell was saying, that we capture those people who deliberately go out, become intoxicated, do the wrong thing and try to use that deliberate intoxication as a defence to that offence.

We do not want to see people who are not substantially impacted by the substance they have imbibed, but might be affected by a pre-existing condition, not able to use that condition as a defence and therefore get the mental health support surrounding that that they might require. Certainly, as has been said, the wording of 'in part' or 'wholly' affected by intoxication is problematic, because you do not want to see a situation where someone might have a very minimal amount of some substance or another in their system, yet that is an insufficient amount to account for the offence, yet they lose the ability to claim any defence to that action.

I think the words 'substantially affected' or 'substantially intoxicated' do achieve that and therefore we are happy to support the amendment. Ultimately, to my mind, it does not matter whose name is on the amendment that passes this place; what matters is that we achieve the best outcome in terms of putting forward the best legislation for the people of this state.

I respectfully put it to the minister that this parliament is not here to legislate the government's election promises: the parliament is here to achieve the best it can for our community and not unfairly impact certain sectors in our community in trying to do so. With all due respect to the minister, we are not here to legislate the government's election promises. Perhaps if the government's election promises were a bit more thought through, we would not be having this discussion. With those words, on behalf of the Dignity Party, I support the Hon. Mr McLachlan's amendment.

The committee divided on the amendment:

Ayes 10
Noes 9
Majority 1

AYES

Dawkins, J.S.L.	Franks, T.A.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L. (teller)	Parnell, M.C.
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.

AYES

Wade, S.G.

NOES

Brokenshire, R.L.	Darley, J.A.	Gago, G.E.
Gazzola, J.M.	Hanson, J.E.	Hood, D.G.E.
Maher, K.J.	Malinauskas, P. (teller)	Ngo, T.T.

PAIRS

Lensink, J.M.A.	Hunter, I.K.

Amendment thus carried.

The Hon. A.L. McLACHLAN: I move:

Amendment No 2 [McLachlan–2]—

Page 5, after line 41—Insert:

(3) However, despite the fact that the judge is satisfied that the person's mental impairment at the time of the conduct alleged to give rise to the offence was substantially caused by self-induced intoxication, the judge may nevertheless make an order that the person be dealt with under this Part after taking into account—

(a) the time and circumstances of when and how the intoxication caused the mental impairment; and

(b) the interests of justice; and

(c) whether the making of such an order would affect public confidence in the administration of justice.

This has been drafted in an effort to ameliorate another significant injustice that was identified in the committee stage. I thank the honourable members for their contribution during that part of the debate.

Members interjecting:

The CHAIR: Honourable members, allow the Hon. Mr McLachlan to speak with the attention he deserves. Order!

The Hon. A.L. McLACHLAN: Thank you, Mr Chair, for your protection. During the course of the debate, we identified that you could have a situation with the words 'whether the intoxication occurred at the time of the relevant conduct' that with mental impairment caused by, let us say, intoxication, even under age, then the mental impairment could not be relied upon in a subsequent response to criminal charges maybe up to 30 or 40 years later. It is the view of the Liberal Party that that is intolerable.

However, in taking advice from parliamentary counsel in considering how we could address the situation, the best way that we have been advised to deal with this is to insert a judicial discretion. I can anticipate that the government will be resisting this amendment based on the fact that the discretion is too unwieldy and that it allows too many options for the judges to undermine the intention of the legislation. I remind honourable members that, when it suits the government to have judicial discretion, it is the greatest thing on the planet, and when it does not suit the government, it is an unwieldy and inappropriate mechanism.

It is the view of the Liberal Party that the best remedy, or the best remedy that we can conceive, is to allow discretion where it is manifestly unfair. That is why I have raised the example given to us, which resulted in us attempting to conceive something that will address that situation that concerns us deeply.

The amendment allows the judge to take into account the time and circumstances of when the intoxication was caused, the interests of justice and the public confidence in the administration of justice. These are standard phrases. These are concepts which judges are accustomed to and regularly address in their judgements.

We do not think that the amendment is unwieldy and will result in an undermining of the government's intention. In fact, in these circumstances, we are simply drawing the judge's attention to circumstances where they need to make a judgement. This is particularly because I do not think the public would accept a judgement, in the circumstances I have described, where someone who is mentally impaired is proven to be mentally impaired, and therefore should not be tried but instead be treated in the circumstances when there might be a 30, 40 or even 50-year time differential between the circumstances causing the impairment, and in those 30 to 40 years have lived a blameless life suffering with their impairment.

The Hon. P. MALINAUSKAS: The government opposes this amendment. The insertion of this subsection defeats the whole intention of the clause and renders the government's election commitment meaningless. For this reason, the amendment is strongly opposed.

The consequence of this amendment would be that a number of people, whom the government is trying to prohibit from utilising part 8A, could still be able to avail themselves of the defence, if a court made an order to that effect. The government submits that this amendment goes a lot further than addressing the opposed mischief in the bill that it appears to be addressing. The Hon. Mr McLachlan's first amendment is sufficient to address members' concerns about when the defence of mental impairment should and should not be available.

The government is concerned that this proposed amendment results in the court being asked to make a public policy decision about who is captured under part 8A and who is not. It is the parliament that should decide in what circumstances a person is able to rely on a defence in part 8A, not the judiciary. Also, this amendment does not promote consistency as to whom is entitled to a finding of not guilty due to mental impairment. By providing the judiciary with such a wide discretion, there is a real fear that the provision will never be applied consistently. As such, it would be very difficult, for example, for a defence counsel to provide evidence to their client as to whether or not the defence of mental impairment would be available to them. The government strongly opposes this amendment.

The Hon. M.C. PARNELL: I think the government protests too much when it says that this amendment defeats the intent of the clause. I do not see it like that. As I said earlier, there is overwhelming support for those situations where a person gets themselves drunk, for example, commits an offence and then tries to rely on the fact that they did not know what they were doing and therefore they should get off the charge. That is gone under this bill. I do not think it is coming back.

As members have pointed out, there are anomalies and there are areas where justice is best served by having a more nuanced approach. I accept that what the Hon. Andrew McLachlan says is if at the end of the day a judge decides that the interests of justice require a person to be dealt with under the mental competence provisions, then it should be possible for that to happen. I think it is going to be the exception rather than the rule. The rule is what we have created in this bill, and that is self-induced mental impairment is not going to be used as an excuse anymore. I do not think it fundamentally goes to the heart of it.

The Greens have consistently supported judicial discretion at nearly every opportunity where it has been presented to us. Whilst I can accept the minister says that this is a matter of policy and is a matter for the parliament to decide, I think we have decided the general policy in this bill, but the detailed application we can leave to judicial discretion.

One injustice that has come to my mind is that over the years, as the government has been pushing for mandatory minimum penalties, it may well be that a person who is deserving of some level of consideration or sympathy is simply not able to get it because if they are found guilty, then the minimum penalty will apply and there is nothing the judge can do about it, even if the interests of justice require a different outcome and even if the public is appalled at the harsh treatment that the person obtained.

This amendment does give the court the opportunity to look at these special cases and to decide, as the honourable member said, if the mental impairment caused by self-induced intoxication was perhaps decades earlier, that it is inappropriate to then suggest that that person is not able to rely on the mental competence provisions of the Criminal Law Consolidation Act for a lifetime. With those words, the Greens support this amendment.

The Hon. J.A. DARLEY: For the record, I oppose this amendment.

The Hon. A.L. McLACHLAN: I briefly respond to the minister's response. All the points that he raised were really a beautiful description of the development of the common law. Therefore, judges, since the common law has been developing, have been deciding matters as freely as the minister has outlined and so I see no fear, both from a normal operation of the court but also for the reasons articulated by the Hon. Mr Parnell. We have set the policy and we have, in addition to it, in certain circumstances, allowed judicial discretion.

The committee divided on the amendment:

Ayes 10
Noes..... 9
Majority..... 1

AYES

Dawkins, J.S.L.	Franks, T.A.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L. (teller)	Parnell, M.C.
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES

Brokenshire, R.L.	Darley, J.A.	Gago, G.E.
Gazzola, J.M.	Hanson, J.E.	Hood, D.G.E.
Maher, K.J.	Malinauskas, P. (teller)	Ngo, T.T.

PAIRS

Lensink, J.M.A.	Hunter, I.K.

Amendment thus carried; clause as amended passed.

Clauses 7 to 10 passed.

Clause 11.

New section 269NDA.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Police–1]—

Page 9, after line 25—After inserted section 269ND insert:

269NDA—Revision of Division 3A orders

(1) If a person who has been released on licence under this Division contravenes or is likely to contravene a condition of the licence, the court by which the Division 3A order was made may, on application by the Crown (which may be made, in a case of urgency, by telephone), review the order.

(2) On an application for a review being made, the court may make an interim order in such terms as the court thinks appropriate in the circumstances, including an order that the person be detained in a specified place for a specified period pending the determination of the review.

(3) After allowing the Crown and the person subject to the order a reasonable opportunity to be heard on the application for review, the court may do 1 or more of the following:

(a) confirm the present terms of the Division 3A order;

(b) amend the order by varying the conditions of the licence;

(c) revoke the order and declare the defendant to be liable to supervision under Division 4 Subdivision 2;

(d) make any further order or direction that may be appropriate in the circumstances.

I start by setting out that the government's amendments are the result of discussions between the government, the Hon. Mr Darley and the Hon. Ms Vincent. I thank those members for their collaborative approach to these discussions. This particular amendment provides that the Crown may make an urgent application, including by telephone, to have a division 3A order reviewed. Division 3A orders are part of the reforms included in this bill which provide more flexibility for courts of summary jurisdiction.

It is intended that this provision will be utilised by the court when it is being asked to review a person's division 3A order at the end of a period of administrative detention. The amendment also provides that the court can make an interim order, including an order that the person be detained pending the determination of a review.

The Hon. J.A. DARLEY: I thank the minister for moving this amendment in response to concerns I raised about a lack of appeal provisions to administrative detention orders. This was coupled with concerns that there would be nothing to prevent a defendant being placed under successive administrative detention orders. Whilst I understand that this is not the intention, I wanted assurances that a person could not be indefinitely detained using administrative detention orders with no right of appeal.

I thank the Attorney for his cooperative approach on this matter and I support this amendment and, consequently, the government's other amendments relating to this matter. Further, I want to thank the Attorney for moving this bill to limit circumstances when the mental impairment defence can be used, particularly for those who are under the influence of drugs or alcohol. This is a matter that I have spoken about before and, as some in this place may know, I had drafted a bill along the same lines.

I was prompted to draft my bill after meeting with Frances Nelson QC, the Presiding Member of the Parole Board, who expressed concerns that the mental impairment defence was being misused and that these provisions needed to be tightened. However, my bill was constrained by the drafting and only affected a limited number of offences. I am pleased the Attorney-General has taken this matter on board and brought forward a bill where the effect of these changes will be much broader.

The Hon. A.L. McLACHLAN: I indicate to the chamber that the Liberal Party will be supporting these amendments and we thank the Hon. Mr Darley for bringing them to the attention of the chamber.

The Hon. M.C. PARNELL: The Greens will be supporting these amendments.

The Hon. K.L. VINCENT: I was only going to say, to just to complete the rainbow, that we support the amendment.

New section agreed to.

The Hon. P. MALINAUSKAS: I move:

Amendment No 2 [Police–1]—

Page 9, line 31 [clause 11, inserted section 269NE(1)]—

Delete 'has breached, or is likely to breach, a condition of the order' and substitute:

contravenes or is likely to contravene a condition of the licence

This amendment is simply a consequential amendment, which ensures consistency around terminology throughout the bill.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 3 [Police–1]—

Page 9, after line 42 [clause 11, inserted section 269NE]—After subsection (3) insert:

(4) The progress and circumstances of a person detained under an administrative detention order must be reviewed as soon as reasonably practicable after the person is so detained—

(a) to determine whether an application should be made to the court for a review of the Division 3A order to which the person is subject; and

(b) for any other purpose as the prescribed authority thinks fit in the circumstances.

(5) Despite subsection (1), a person who has been detained under an administrative detention order cannot be detained under another such order unless a period of at least 14 days has elapsed since the expiry of the previous administrative detention order.

This amendment and some of the other government amendments comes about following discussions between the government and the Hon. Mr Darley. I would like to thank the Hon. Mr Darley for the way in which he and his staff have worked collaboratively with the government on the drafting and negotiation of this amendment. This amendment relates to a person who is subject to a division 3A order and provides that the progress and circumstances of a person detained under an administrative detention order must be reviewed as soon as practicable by the prescribed authority after the person is detained.

The intention of the addition of this provision is that this review will enable a determination to be made by the prescribed authority about whether an application needs to be made to the court to review the person's original division 3A order before the person is automatically released back into the community after 14 days.

This amendment also provides that a person who is being detained pursuant to an administrative detention order cannot be detained under another such order unless a period of at least 14 days has elapsed. The intention of this subsection is to prevent a person from being continuously detained on back-to-back administrative detention orders if a decision has been made not to review the person's original division 3A order, as it was never the intention of the legislation for a person to be detained for longer than 14 days without a court appearance. Put simply, this amendment provides additional protection to persons detained under administrative detention orders.

Amendment carried; clause as amended passed.

Clauses 12 to 16 passed.

Clause 17.

The Hon. P. MALINAUSKAS: I move:

Amendment No 4 [Police–1]—

Page 13, after line 8—Before subclause (1) insert:

(a1) Section 269P(1)—after 'the Public Advocate' insert ', the Commissioner for Victims' Rights'

This amendment explicitly provides the power for the Commissioner for Victims' Rights to have a legal standing to be heard in any applications to vary or revoke a supervision order pursuant to section 269P of the act. The commissioner has expressly requested this power, and, whilst it appears that section 269P of the act has been interpreted by the courts in a way that allows victims an opportunity to be heard on such application, this amendment provides clarification.

The Hon. J.A. DARLEY: I thank the minister for moving this amendment. I have long been an advocate for the rights of victims of crime and believe it is important for victims to have a voice. This voice often presents itself through the Commissioner for Victims' Rights. This amendment gives

the victims of crime commissioner the ability to make an application for a supervision order to be varied or revoked. This provides clarification that the victims of crime commissioner is a person with a proper interest in the matter.

I understand that there has been some conjecture in the judiciary as to whether the victims of crime commissioner—often representing or assisting the victim—is a person with a proper interest in the matter. This amendment will clarify the parliament's intentions. I support this amendment and also support the government's amendment No. 6, which entitles the Commissioner for Victims' Rights to appear and be heard when applications are made for a continuing supervision order. I again thank the Attorney and his office for agreeing to move this amendment following discussions with my office.

Amendment carried; clause as amended passed.

Clauses 18 to 21 passed.

Clause 22.

The Hon. P. MALINAUSKAS: I move:

Amendment No 5 [Police–1]—

Page 14, after line 15—Before inserted subsection (2) insert:

(1a) On an application for a review being made, the court may make an interim order in such terms as the court thinks appropriate in the circumstances, including an order that the person be detained in a specified place for a specified period pending the determination of the review.

This amendment will provide the court with the power to make an interim order in such terms as the court thinks is appropriate, including that the person be detained while the court is determining an application to review a person's supervision order at the end of a period of administrative detention.

Amendment carried, clause as amended passed.

Clause 23.

The Hon. P. MALINAUSKAS: I move:

Amendment No 6 [Police–1]—

Page 15, after line 17 [clause 23, inserted section 269UA(5)]—After paragraph (b) insert:

(ba) the Commissioner for Victims' Rights;

This amendment provides the Commissioner for Victims' Rights with the explicit right to be heard on application before the court for a continued supervision order.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 7 [Police–1]—

Page 17, lines 34 and 35 [clause 23, inserted section 269UE(1)]—

Delete 'has breached, or is likely to breach, a condition of the order' and substitute:

contravenes or is likely to contravene a condition of the licence

This amendment is a consequential amendment, which ensures consistency around terminology.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 8 [Police–1]—

Page 18, after line 8 [clause 23, inserted section 269UE]—After subsection (3) insert:

(4) The progress and circumstances of a person detained under an administrative detention order must be reviewed as soon as reasonably practicable after the person is so detained—

(a) to determine whether an application should be made to the court for a review of the supervision order or continuing supervision order to which the person is subject; and

(b) for any other purpose as the prescribed authority thinks fit in the circumstances.

(5) Despite subsection (1), a person who has been detained under an administrative detention order cannot be detained under another such order unless a period of at least 14 days has elapsed since the expiry of the previous administrative detention order.

This amendment relates to persons subject to supervision orders or continued supervision orders and provides that the progress and circumstances of a person detained pursuant to an administrative detention order must be reviewed as soon as practicable by the prescribed authority after the person is detained. The intention of the addition of this provision is that this review will enable a determination to be made by the prescribed authority about whether an application needs to be made to the court to review the person's original supervision order or continuing supervision order before the person is automatically released back into the community after 14 days.

This amendment also provides that a person who has been detained pursuant to an administrative detention order cannot be detained under another such order unless a period of at least 14 days has elapsed. The intention of this subsection is to prevent a person from being continuously detained on back-to-back administrative detention orders if a decision has been made not to review the person's original supervision order or continuing detention order, as it was never the intention of the legislation for a person to be detained for longer than 14 days without a court appearance.

Amendment carried; clause as amended passed.

Remaining clauses (24 to 29) and title passed.

Bill reported with amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:31): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUMMARY PROCEDURE (INDICTABLE OFFENCES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 2 March 2017.)

The Hon. A.L. McLACHLAN (17:31): I rise to speak to the Summary Procedure (Indictable Offences) Amendment Bill. I speak on behalf of the Liberal opposition. The Liberal opposition will support the second reading of the bill. At this stage of the debate I indicate that the Liberal Party is likely to seek to amend the bill, having regard to the views of the Law Society, the Bar Association and other concerned members of the legal profession. Honourable members will be aware, as I have declared on many occasions, that I am a member of the Law Society.

Clauses in this bill have given rise to great alarm for those who practise in criminal law. While I acknowledge that the government consulted the legal profession on this bill before it was tabled in this place and made some changes in response to concerns, certain clauses that remain in this bill are still strongly opposed by the representative bodies of the profession. In respect of these provisions, the legal profession as represented by these bodies takes a repugnant view. The Liberal Party has great sympathy for their position.

The bill seeks to amend extant criminal procedure and the conduct of criminal trials in this state. The objective of the bill is to dictate pre-trial disclosure from both the prosecution and the defence. It is accompanied by a separate bill, which is before this chamber, that provides for sentence

discounts for early guilty pleas. Together, they are an attempt to improve the efficiency of the criminal justice system.

I intend to keep my comments in this debate focused on those parts of the bill that are the most contentious. The bill requires the prosecution to provide a case statement no less than six weeks before an arraignment date, when the defendant usually enters their plea. The defence must then provide a case statement no more than four weeks after receiving the prosecution statement. The provisions of the bill set out a prescriptive list of what must be included in these case statements.

Alarmingly for the defence, this includes the nature of the defence and the particular defences to be relied upon. This, prima facie, encroaches on the accused's right of silence and to put the prosecution to proof. The Liberal Party has great difficulty accepting the inclusion of this particular provision in the bill, having regard to the longstanding principles that underpin our democracy and the rights of the individual. I seek clarity from the government at the summing up of the second reading debate on what is envisaged will constitute a declaration of particulars of a defence. Presumably the prosecution can rely on any subsequent inconsistent statement. I also seek clarity from the government on this point at the summing up of the second reading debate.

Should the defence fail in providing the necessary information then the judge can make comment about this to the jury. This is a sanction that the defence risks, should it fail to comply. There is no corresponding sanction on the prosecution, although I acknowledge that it is difficult to identify what circumstances would arise in respect to the prosecution where such a sanction would be used. Failure of the prosecution to comply would likely result in an adjournment or dismissal of the charges. Both courses of action benefit the defence case, although delay adds to the stress of the accused.

In my contemplation of the bill and my preparation for this debate I have drawn on the advice of leaders in the legal profession. I have also drawn on my experiences, being a defence counsel, as well as when I was a prosecutor in certain cases in the military justice system. I have also had regard to academic papers and dusted off an old text used in my youth, penned by Glanville Williams, now passed.

When debating the bill in the other place, the Attorney-General bandied about a quote from the Right Honourable Sir Robin Auld, which came from his review in 2001 of the criminal courts of England and Wales. I will not repeat it here; he repeated it enough times in the other place. In essence, the quote from a vast report into the purpose, structure and workings of the criminal justice system in England and Wales suggests that criminal trials are not a game but a search for truth and therefore pre-trial disclosure is warranted.

What the Attorney-General did not say in the other place is that the changes to pre-trial disclosure were not universally accepted in England and Wales; in fact, it remains hotly disputed. Further, this view, as far as it has guided a legislative response, has caused difficulties and, very importantly, it is only one component of the reform suggested to ensure justice whilst seeking efficiencies.

I note the Attorney-General did not, in the House of Assembly, give its members the benefit of Sir Robin's view that the prosecutor must be strong, independent and adequately resourced, and that there must be an experienced, motivated defence lawyer adequately paid for pre-trial preparation. In other words, if you demand pre-trial disclosure, you must also adequately resource the criminal justice system in its entirety.

Each part of the process must work effectively, otherwise the defendant will suffer prejudice. Procedures and rules are far less important than the manner and spirit in which they are administered. Every participant has a key role to play to give effect to an efficient and well-administered criminal justice system. This includes the impartiality and dedication of judges, the fairness of prosecuting counsel, the restraint of defence counsel and the care taken by the police to preserve public confidence, including respecting the rights of the suspects and not overcharging the accused.

It does not matter how detailed or prescriptive legislation or court rules become. A crime must be properly and diligently investigated by the police. The accused must be charged. The brief

must then be assessed by the prosecuting counsel and full disclosure given to the defence. Only then can the defendant, with the advice of their defence counsel, make an informed decision on how to respond to the charges. If the process works like this every time, I suspect then that this bill would not ever have been conceived, but the workings of the criminal justice system are not simple, they are complex.

There is nothing wrong with the desire of the government to place importance on the early identification of issues, but this may be impossible to achieve, especially without increased resourcing of the police and the DPP, as well as increased funding of legal aid. The Attorney-General's rationale for the necessity of this bill is, in essence, that the delays in the criminal justice system are all the fault of the defence counsel. In other words, the defendant and his or her lawyer are being blamed by this government for being uncooperative. This is unfair and cannot be justified.

Honourable members should note that failures in regard to prosecution disclosure can cause miscarriages of justice. Failings in regard to defence case statements only impacts supposed efficiency. I see no justification to seek to take away the rights of a defendant. Focus should equally be on the investigation, preparation and prompt disclosure of the prosecution case. I remind honourable members that our criminal injuries system is adversarial. The Sentencing Bill before this chamber rightly offers inducements for defence cooperation. I suggest that this will have the greatest impact on the behaviour of defendants and will drive their cooperation.

The delays in our criminal justice system are the result of a chronic lack of funding into the system as a whole. By the time of the next election we will have had 16 years of neglect and inaction, with only an echo of a chest beating by government members that they are tough on crime. The principles of criminal procedure embody a system of values. As Glanville Williams writes, 'These values do not have to be changed with the march of knowledge of the material world.' We must remember where we have come from. The Star Chamber in England could summon a defendant with no warning of the charge to be made against him and examine him on oath. The chamber often used the rack to elicit confessions. Thankfully, we have moved on.

Today, our values dictate that a person charged with an offence against the state may be defended by a member of the legal profession, who has a duty to his or her client and is allowed to raise every point of fact and law, however technical, that may secure his or her client's acquittal. Yet, we have seen this very day, in this bill before us, that these values subsequently adopted by civilised countries to arrest the horrors of the Star Chamber are now under challenge.

In my personal view, it is because of our past that we must instinctively resist initiatives that require a defendant to disclose the defence ahead of arraignment for trial. If such disclosure is to be required, then it might only be considered in limited circumstances, and close to the commencement of trial. It is a seductive suggestion that the discovery of truth and the reduction of cost are best achieved by cooperation in the pre-trial process. I acknowledge that this logic has instinctive appeal but, like the apple from the tree of knowledge, it has very seductive qualities that veil the potential ruin that lies ahead.

This can be seen in the government's fact sheet that sought comment on these initiatives. The catchcry emblazoned at the top is 'Putting people first'. It implies that these initiatives benefit the community as a whole without cost. This is an old socialist mantra, a classic abuse of logic and language: appeal to the mob by oppressing the few. Instead, we should always seek to protect the rights of the individual as the only true way to protect the whole community. These changes attack our longstanding accusatorial system of justice.

Our criminal justice system must have protection for the individual against the capricious actions of the state, however unlikely. We do not need to look that far into our past to find the case of Keogh. The Keogh case should make every honourable member in this chamber very uncomfortable. In justifying these initiatives, the government is inferring that defence practices heighten the risk of unmeritorious acquittals. I do not believe this to be justified.

Defence counsel have a duty not only to their client but also to the court. They are key to ensuring the system remains fair and retains the confidence of the community. It is also too simplistic to argue that the defendant always knows the truth and should be forced to reveal their case at the earliest opportunity. In reality, there are many circumstances where the defendant may not be sure

whether or not they are guilty. There are cases of extreme intoxication, complex corporate trials or even cultural reasons that mean it is very difficult for a defendant to understand the circumstances that they find themselves in.

Alternatively, the defendant may be concerned with the intimidation and manipulation of their evidence if they cooperate at an early stage. Fair trial rights should always prevail over the needs of the Treasury for efficiency and cost savings. I can still remember my early days as a young lawyer defending unfortunate individuals who found themselves in difficult circumstances. When you stand alongside the defendant, you realise the extent of the resources available to the state and how little is provided to the defendant. This is burnt in my memory.

This government has sought to worship at the altar of the god of efficiency, but to placate this golden calf it is willing to sacrifice the rights of the individual, rights that are important to all of us in the community. The government is disregarding longstanding community values that have nurtured our people and ensured that their relations with each other are governed fairly. This bill introduces principles of judicial criminal case management in an attempt to impose a regime that is solely designed to extract efficiencies. There is no consideration of the cost of betraying our longstanding community values.

In our society, we hold the belief that individuals are decent and law abiding until proven otherwise. We respect the dignity and autonomy of the individual and expect that the state must demonstrate it has reasonable grounds for suspicion before interfering in an individual's affairs. The requirement to disclose the defence ahead of arraignment is not congruent with the presumption of innocence, the privilege against self-incrimination and the right to legal assistance.

It can be argued that the changes to defence disclosure requirements represents a leaning towards a more inquisitorial process. This ideological drift must be resisted. The Liberal opposition encourages initiatives that seek to improve the efficiency of the criminal justice system, but not at the unreasonable expense of the rights of the individual and certainly not without improved resourcing of the criminal justice system.

The Hon. J.E. HANSON (17:45): I rise to speak in support of the Summary Procedure (Indictable Offences) Amendment Bill 2016. This bill is one of the key pieces of reform in this government's transforming criminal justice project and it will mean that matters moving through the criminal justice system will do so more efficiently and more effectively.

One of the key pieces of this reform is the requirement for both parties to provide case statements. This is found at clause 123. I point out that other jurisdictions such as New South Wales, Victoria and Western Australia already make provision for the prosecution and the defence to disclose the types of information included in case statements, although the term 'case statement' is not specifically used and the specifics may vary from jurisdiction to jurisdiction.

In the New South Wales system, on which our bill is closely modelled, the Criminal Procedure Act 1986 sets out a system of mandatory pre-trial disclosure. Pursuant to section 141 of the New South Wales act, after an indictment is presented or filed in proceedings in the District Court or the Supreme Court, the prosecution is required to provide a prosecution notice setting out the case against the accused. The defence is required to provide a response to that notice.

Pursuant to section 142, the prosecution notice must include a statement of facts, a list of witnesses and a copy of the documentation that the prosecution intends to adduce at trial. Further, the prosecution must disclose any information that is relevant to the credibility of the accused person. The accused person is then required to give notice of the defence response to the prosecution's notice. Importantly, this information includes the nature of the accused person's defence, including any particular defences they intend to rely upon. The accused person must also set out the facts and matters of circumstances set out in the prosecution notice with which the accused person intends to take issue.

Pursuant to section 143(2), the court is also able to order that a range of other matters be included in the defence response, such as notice to the prosecution if the accused intends to call any expert witnesses at trial, notice of whether the accused intends to require the prosecutor to call any witnesses to corroborate surveillance evidence, notice of whether the accused accepts transcripts

from the prosecution, or notice of whether the accused person intends to dispute the authenticity or accuracy of proposed documentary evidence.

Section 146 sets out the sanctions for noncompliance with the pre-trial disclosure actions. These sanctions include the court's ability to refuse to admit evidence that was not properly disclosed or to grant an adjournment. Pursuant to section 146A, in circumstances where the prosecution has complied with the requirements for pre-trial disclosure but the accused has failed to comply, the court, or any other party with leave of the court, may make such comment at the trial and the court or jury may then draw an unfavourable inference. This particular sanction is similar to the sanction allowed for in clause 125(6) of the bill currently before us.

In Western Australia, section 95 of the Criminal Procedure Act 2004 requires the prosecution to provide a statement of material facts, together with any evidential material on the accused, 42 days after committal. The accused must respond 28 days before the date set for trial. In addition to giving notice of alibi or expert evidence by the defence, the defence response must include notice of the factual elements the accused contends cannot be proved, as well as notice of any objection to prosecution evidence and the grounds for such objection.

Pursuant to section 97 of the act, if a party fails to comply with the disclosure requirements, the court may adjourn the matter or discontinue the trial. Pursuant to subsection 97(4), the failure by a party to obey a disclosure requirement may be the subject of adverse comment to the jury by the judge, the accused or the prosecutor. Notably, the Western Australian legislation does not make this ability for adverse comment to be made subject to the leave of the court.

In Victoria, section 182 of the Criminal Procedure Act 2009 requires the Director of Public Prosecutions to file and serve the summary of the prosecution opening and a notice of pre-trial admissions 28 days before the trial is listed to commence. After receiving a copy of the documents above, section 183 requires the accused to serve a response on the prosecution and file in court at least 14 days before the trial commences. The defence response must identify the acts, facts, matters and circumstances alleged by the prosecution and the prosecution evidence that the defendant takes issue with, as well as the basis upon which that issue is taken.

Our bill is modelled more closely on the New South Wales' provisions as it is essential, in the government's view, to have the parties consider these matters at the earliest stage possible. While the Victorian model is a form of early disclosure, it must be considered in the context of what is a different system of criminal procedure. While the 28-day model works well for Victoria, our criminal procedure laws more closely reflect those of New South Wales, which is why our bill is in the form that it is.

It is still worth noting that in Victoria, as in Western Australia and New South Wales, if a party intends to depart substantially at trial from a matter set out in a document served and filed by that party, the party must inform the court and the other party in advance of the trial. The obligation and disclosure is ongoing and any information, document or thing that comes into the possession of the prosecution later that would have been required to be served must be served on the accused as soon as possible.

I draw to the attention of this council the New South Wales, Western Australian and Victorian provisions so that they may draw some comfort from the fact that pre-trial procedures do exist in other jurisdictions in Australia. The government's original Transforming Criminal Justice paper set out the following:

> The government is committed to improving the effectiveness of the criminal justice process without undermining a suspect's right to a fair trial and without compromising the fundamental principles of the criminal justice system.

This bill will improve the effectiveness of the system, but does not undermine a suspect's right to a fair trial or compromise the fundamental principles of our criminal justice system. I commend the bill to the council.

Debate adjourned on motion of Hon. S.G. Wade.

Sitting suspended from 17:53 to 19:45.

EMERGENCY MANAGEMENT (ELECTRICITY SUPPLY EMERGENCIES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. R.I. LUCAS (19:46): I rise on behalf of Liberal members to address the second reading of the Emergency Management (Electricity Supply Emergencies) Amendment Bill 2017. As has already been publicly indicated by the Liberal leader Steven Marshall, I indicate that the Liberal party room has resolved not to oppose the legislation, so its passage is assured or guaranteed through the parliament this week. However, as the Liberal leader and shadow energy spokesperson, Mr van Holst Pellekaan, have indicated, there is considerable scepticism from Liberal members and a number of stakeholders in the community who have been consulted that this piece of legislation will do everything that the government has claimed that it will do.

This bill is based on the huge belief that the Hon. Tom Koutsantonis—the world's most notorious hoon-driving Treasurer, someone who has helped create the crisis that we currently confront, someone who has driven the economy into the ground, someone who was caught up in the Gillman scandal and someone who, frankly, I would not trust to run a chicken shop—somehow is now going to be the person who can run the National Electricity Market better than anyone else, without creating a disaster by himself. Put simply: give me a break! Good luck with that particular assumption upon which this legislation is based.

During the committee stage of the debate we will look at some of the statements and claims that have been made, the detail of the legislation and the nature of the advice that the government was receiving during some of the recent emergencies, and seek some indication from the government and its advisers as to the government's response.

We have seen many of the government's claims in relation to the legislation that we have before us and the government's energy plan. I noted that the Hon. Tom Koutsantonis, on 11 April this year, said that if these powers had existed last year the statewide blackout could have been avoided by reducing reliance on the interconnector and calling on more generation in South Australia. Yet, this is the same Treasurer who, on 29 September last year, said:

> I have to say that there is no politician anywhere in the world who can guarantee any type of infrastructure to deal with that kind of natural event, and anyone who says that [then they are] lying.

Out of the mouths of babes. The same man who in September of last year said nobody could do anything about the circumstances with which we were confronted and anyone who says that they can is lying, in April of this year is now saying, 'Look, if these powers had existed it would have all been hunky-dory and I would have been able to fix the problem.'

The other claims that have been made, many of which are in the government's energy plan, 'It's time to take charge of our energy future', relate to the impact the government says it will have on prices. I quote from that document under 'Message from Jay', where he states:

> The privatisation of our State's energy assets has placed an enormous amount of power in the hands of a few energy companies.
>
> These factors, together, have led to too little competition in our national energy market…
>
> Today in South Australia, that all changes.

As a result of this piece of legislation and the other four or five elements of the government's plan, all of this is changing. We have seen claims made by the Treasurer on Twitter. In essence, he says that his legislation now will see the end of privatisation. He says, 'Will Rob Lucas allow his legacy to be unwound by giving power of direction over generation assets back to South Australia?'

In that statement and a number of others, the Treasurer has indicated, in terms of the legislation that we have before us, that the government is saying that the era of privatisation is over. The Treasurer—who will know better than anybody else in the country or in the world, in terms of running a complex national electricity market—he and he alone will be able to single-handedly run the market and run it better than anybody else. He claims that he will be able to unwind the problems of privatisation through the legislation and the other elements of the plan that we see before us.

So, clearly, the ball is now in the government's court. After all this publicity, after this plan and the legislation is passed, if the plan has been publicly unveiled and $1 million-plus is spent on advertising it—after all of this, if the public of South Australia, between now and early next year, still see massive price rises in electricity, if the public of South Australia still see blackouts occurring between now and early next year then the game is over. The Hon. Tom Koutsantonis and the Premier—Jay, as he likes to be called—have said they have the solution, they have the plan, they are going to be able to put downward pressure on prices and they will be able to stop the blackouts.

It is going to be a simple test and that is why this legislation is going to pass through parliament. It will be a very simple test for the people of South Australia. Will they see prices coming down as a result of this legislation and the government's plan? Will they see no more blackouts between now and early next year? Because Tom Koutsantonis is single-handedly going to be able to run this market in emergencies and he would have been able to prevent the statewide blackout of September last year.

This man and this man alone has the capacity, so he says, to be able to single-handedly run this National Electricity Market, take advice, and fix all the problems for the people of South Australia. Let me just say that I am sceptical. I have my doubts that the Hon. Tom Koutsantonis, who, as I said, has that catalogue of sins on his CV already, is in any way likely to be able to do all that he claims he is going to be able to do. So, there will be no excuses. It is a simple test and we look forward to seeing whether or not the government and the Treasurer achieves all that they say they are going to achieve from what they claim to be the solution.

The hypocrisy of this government and the Treasurer is well known. I outlined in a speech to this house on 29 November last year the hypocrisy in relation to privatisation. I placed on the record statements made by the Hon. Trevor Crothers to me that the Hon. Tom Koutsantonis had urged him to cross the floor and vote for the privatisation bill. I indicated in that particular speech for the second time that the Hon. Terry Cameron was aware of the encouragement from the Hon. Tom Koutsantonis to the Hon. Trevor Crothers and to the Hon. Terry Cameron to support the privatisation bill, yet of course, now that it suits him, the Treasurer portrays himself as the opponent of the privatisation of the National Electricity Market.

I remind members again, as I did in that particular speech, that contrary to the claims made by the Treasurer, the Premier and others, the National Electricity Market was actually created firstly by a federal Labor government under Paul Keating, and a state Labor government under Lynn Arnold. It was not created by federal Liberal and state Liberal governments. It was supported by subsequent federal Liberal and state Liberal governments, as it has been by subsequent federal Labor and state Labor governments, but the National Electricity Market in the early nineties was actually conceived under Labor administrations, both federal and state.

In that contribution in November, I highlighted, and I will not again, those particular facts in relation to the National Electricity Market. I place on the record the most recent statement made by the Treasurer immediately after the statewide blackout last year on 28 September. What did the Treasurer say about the National Electricity Market after the statewide blackout? The whole state had been blacked out the night before. The Treasurer said in parliament, in *Hansard*, as follows:

> We are the lead legislator for the National Electricity Market. We have a lot of in-depth, in-situ advice given to us constantly by world experts based here in South Australia—people whose lives have been dedicated to the management of the National Electricity Market and its establishment…
>
> We have designed it, we have built it…and it's worked and served us well.

This is the Treasurer, the day after the statewide blackout last year, saying, 'We created, we designed, we have built the National Electricity Market as the lead legislator, and it's worked and it's served us well.' Not only did he say that, he went on further:

> As inconvenient as it was yesterday—

that is all he can put on it. It was 'inconvenient' to have a statewide blackout. This is the day after the statewide blackout—

> the system worked as it was designed to—it protected itself.

This is the Treasurer. These are his own words in *Hansard* congratulating himself and his government on being the lead legislator, on having designed the National Electricity Market rules, having led the debates in relation to it, and saying that yesterday's events—the statewide blackout—were inconvenient, but that is how the market was meant to operate, and it worked well. It protected itself. It worked, and served us well. What arrant, rank hypocrisy from Treasurer Koutsantonis. It is simply unbelievable. I am not sure sometimes how he keeps a straight face, if that is indeed a straight face we see on television each night.

I am not sure how he keeps a straight face when he speaks now, having been on the record straight after the blackout saying that clearly. The political opinion polling came in over Christmas and New Year and absolutely belted the Treasurer, the Labor Party and the Labor government. Labor members know that, prior to the last state election, their internal market research, the same as the internal market research for the Liberal Party, showed that the most despised politician in South Australia was the Hon. Tom Koutsantonis. He had the highest negative rating of any politician, Labor or Liberal, in South Australia. That is a pretty fair record, and he is building on it. He has built on it since 2014.

The Hon. P. Malinauskas: How did you come up?

The Hon. R.I. LUCAS: Much better than the Hon. Tom Koutsantonis, but humility prevents me from revealing the numbers.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: What happened over Christmas and New Year was that the market research came to the hardheads in the Labor Party and said, 'The Hon. Mr Koutsantonis, this sort of line you are running on the National Electricity Market, that you designed it and you have taken credit for, that it has worked well and it was just inconvenient for us to have a statewide blackout, ain't going down too well with the punters out there. You are going to have to come up with some taxpayer money to spin and sell an electricity plan or an energy plan or something. Anything is better than what you have been selling for the last three years.'

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is good to see the frontbench squealing like stuck pigs. We know the leader did not want to be here tonight. He wanted to be on a basketball court somewhere. He is a bit grumpy. Mr President, I am happy to go along with the interjections as long as you permit them to go on; they are not going to divert me. The more we hear the members of the frontbench squealing like stuck pigs, we know the message is hammering home in relation to this particular issue.

That is why we have the plan that is now being launched. That is why we have $1 million-plus of taxpayers' money being spent, with Premier Weatherill—Jay, as he calls himself—front and centre in paid television advertising. It is contrary to all the pre-existing government advertising guidelines that said as soon as you see a politician in a government-funded advertising campaign, it is party political—straight out of the words of Mike Rann, the former leader of the Labor Party. The pre-existing guidelines explicitly banned that. There was an Auditor-General's report, but the government has either got its way around that or simply ignored it on the basis that, even if the Auditor-General were to report, they would just ignore the report and deal with that, potentially after the next election.

Let me finish that particular quote, because I was diverted by unseemly and injections by the Leader of the Government. On 29 September last year, the Hon. Tom Koutsantonis finished his answers in question time by saying:

> As I said, the entire framework for AEMO's operation, for the operation of the National Electricity Market, is based in this parliament. In bipartisan ways, we have built the National Electricity Market in this chamber and in the other chamber by bringing amendments and bills here to this parliament on behalf of all other Australian parliaments, and we voted on them.

That indeed was the claim made by the Treasurer. There are many other aspects of the energy plan that have been touched on in part by speakers in the second reading debate. There have been passing references to the government's broken election promise of 2002 to build the Riverlink interconnector.

We know, before this plan was launched late last year, the government's first attempted plan was to say it was going to spend half a million dollars on a business case for a new interconnector. Now that this plan has come out, there are many stakeholders who are arguing that this plan in itself makes it harder for any interconnector to be ultimately passed by the national regulatory authorities in the immediate or short term, and that is why it does not feature. The government does not want to talk about interconnectors. It promised one in 2002, and 15 years later it has still broken its promise.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am very happy to talk about the interconnector any day of the week. If young pups like the Hon. Mr Malinauskas want to come in and lead with their chin and talk about a 2002 election promise (when he was probably still in school), that was a promise made by his former Premier and his government, who fought an election in 2002 on promising that they would build an interconnector into New South Wales. Fifteen years later, where is that promise? It is as broken as most of the other promises of this Labor government, this broken, decrepit, dilapidated excuse for a government, sort of scrambling to the line for the election in March 2018.

They are desperate to cling onto power and will use any device, any taxpayers' money that they can get their grubby little hands on: a spare $1 million here for the Job Accelerator Grant Scheme; $1 million plus for the advertising of their energy plan, or Jay's energy plan. They will fund their advertising campaigns, not through the Labor Party, but using the taxpayers' money because there are probably people a little wary about giving them money, other than the good old shoppies union, because they know that if they keep pouring millions into the Labor Party they will keep control of the Labor caucus, keep control of the preselections and they will be able to stop the shop trading hours legislation, which they have pledged, forever and a day, to oppose.

The other aspects of the plan that, as I said, we will not have time tonight to go through in any great detail is the new gas-fired plant, which is $360 million, and there are many who are already raising very significant questions about the cost of that particular plan. We had the incredible set of circumstances on radio in the last week where the simple question was put to the Treasurer, 'Well, what's it going to cost to actually run this plant?' The Treasurer was like a wide-mouth grouper. The mouth went open and closed, but nothing was coming out. It was one of those embarrassing moments on radio and the Treasurer had no idea at all on what it would cost to run his $360 million gas-fired power station. He had no idea at all and yet he is asking for the people of South Australia to endorse this gas-fired plant, and he has no idea—

Members interjecting:

The PRESIDENT: Order! Will the Hon. Mr Maher desist. Honourable minister, desist. I have given you the warning. Allow the Hon. Mr Lucas to continue unabated.

The Hon. D.W. Ridgway: If you name him tonight, we are with you.

The PRESIDENT: Yes, I know you are, that is why I probably will not name him.

The Hon. R.I. LUCAS: He probably wants to go home.

The Hon. D.W. Ridgway: Have some courage.

The Hon. R.I. LUCAS: There is also then the unknown cost—again, which the government and the Treasurer has no idea of—of the diesel-fired plant that is going to be required because everybody knows, contrary to the vague assurances from the government that maybe it might be available for this summer, that this gas-fired plant has two chances of being ready by this summer: none and Buckley's. There is just no prospect at all of this $360 million gas-fired plant being ready to tackle the problems of this particular summer.

In fact, should we be in the unfortunate circumstance of a Labor government being re-elected, there is considerable doubt as to whether it would actually even be ready for the following summer as well. As I said, there are many other aspects of that plan, but tonight I just want to look at this particular aspect, which is the emergency management bill that we have before us.

Again, I repeat the claims that are being made in relation to the legislation I referred to earlier. In a recent interview with the Treasurer on 10 April this year, he claimed as follows: 'These powers'—he is talking about the legislation—'undo a lot of that legacy.' That is, the legacy of the privatisation of ETSA. 'These powers give South Australians back the power that they had when we owned our assets.' That is the claim that is being made about this legislation. The government is claiming that this is going to undo all of the issues in relation to the privatisation: 'These powers give South Australians back the power that they had when we owned our assets.'

As I said earlier, we will be able to see over the coming 11 or 12 months whether that particular claim is correct or not, but that is the claim that is being made by the Treasurer in relation to the legislation. He also said on ABC News on 28 March that:

> Again, he repeated his claim that if he had had those powers in September the statewide blackout could have been avoided, Angelique Donnellan reports.

Further on he said, 'We would have constrained the interconnector in the morning.' I will come back to that later in this contribution. He said, 'We would have constrained the interconnector in the morning.' So, before 12 o'clock in the morning he would have constrained the interconnector 'as I asked AEMO and there would have been more South Australian generation on.' That is his claim in relation to the legislation.

Then he says further on, 'We will never have idle generators sitting by, seeing prices spike by creating scarcity.' That is the claim in relation to the legislation that we are about to pass. Not in certain circumstances in relation to emergencies, but he is saying, 'We will never have idle generators sitting by, seeing prices spike by creating scarcity.' The stakeholders and observers who have seen those particular claims laugh at their accuracy.

On 28 March this year, he told reporters that the ministerial directions would need to be followed on pain of massive fines. I will be exploring that later on in this speech and also in the committee stage. Then, he said:

> Koutsantonis said the new powers would prevent future blackouts and force generators to turn on when the state requires energy. 'We will never have idle generators creating scarcity', he said.

Again, replicating the previous statement that he put on the public record. Then again, on 28 March, this time in the press release that he and the Premier issued, he said, 'Under these new laws we would have the power to step in and direct available generation on within minutes.' 'Within minutes' is the test that he will now be judged by because that was the official press release put out by the Treasurer and the Premier. Sorry, let me qualify that. That was actually a claim made, on that occasion, by the Premier. Then, the Treasurer said:

> For the first time, since the previous Liberal government sold ETSA, South Australians are going to have control over their energy supply.

So, the test in relation to this legislation is that, for the first time since 2001, South Australians are going to have control over their energy supply. There will never, ever be generators standing idle, and all of those other claims that the Treasurer has made in those particular statements that I have put on the record.

In looking at this particular legislation and comparing it to the two pieces of legislation that already exist, the Essential Services Act 1981 and the Emergency Management Act 2004, even the Treasurer, during the debate on this particular bill in another place, conceded the following, 'I have to say that I already have the powers I am seeking now if an emergency is declared.' So, contrary to the public claims he has made that this is going to wind back privatisation, we are going to go back to the circumstances that existed prior to ETSA, he then says in the house, completely contrary to those particular public statements:

> I have to say that I already have the powers I am seeking now if an emergency is declared. I can actually intervene, declare a state of emergency and, of course, have these powers. It only makes common sense, given what

we have been through, to now say, 'Do we require these powers to avoid heading into a state of emergency?' It is not as simple as saying that the Governor must obey whatever the executive tells him in Executive Council. The Governor must be satisfied, and we, as his ministers, must be truthful in advising him. If there is no emergency as defined under the act, we cannot call a state of emergency. We need to be able to satisfy ourselves that emergency has occurred.

As I will point out later, the latter part of that is simply incorrect, but the first part of that is a statement of fact; that is, by and large the minister is acknowledging that the government does have these powers already in two existing pieces of legislation, and the overblown, hyped, publicly funded claims that are being made about the legislation do not bear too much scrutiny. But, as I said, there will be a simple test about whether or not this particular plan has worked. So, that is the Treasurer indicating that he already has the existing powers. Further on he said—and I will draw attention to this during the committee stage:

I had no power to intervene, other than to call a state of emergency, but of course a state of emergency did not exist, so I could not have called it and used any of those powers as this was before the storms wreaked any havoc and before there was any damage done to property.

I will be considering that further on in this contribution and also during the committee stage of the debate. He also said, again during the House of Assembly debate, as follows:

…if I had the power before the emergency was there I could have used that power to, at the very least, constrain the interconnector so that losing it would not be a credible contingency.

He then went on to make some of the same public statements he has made in relation to being able to prevent the statewide blackout on 28 September. I will refer later in my contribution to the advice the minister was receiving that morning.

If I turn to the existing Essential Services Act 1981, this act gives the power to the Attorney-General. as opposed to the Minister for Energy. Under section 3 of the existing act, the government, but through the Attorney-General, has the power to declare periods of emergency. It provides:

Where, in the opinion of the Governor, circumstances have arisen, or are likely to arise, that have caused, or are likely to cause, interruption or dislocation of essential services in the State, the Governor may by proclamation—

(a) declare a period…to be a period of emergency…

Under the Essential Services Act, there is the existing power, and the Treasurer acknowledges that during the debate in the other place; that is, he or the government (it is not really him, although he says it was him), through the Attorney-General, had the power to do so.

The claim that the government is making is that, to use the power to declare a state of emergency, it is a longer and more cumbersome process. In one of the quotes I referred to earlier, the Treasurer refers to the fact that you have to go to the Governor and convince the Governor about the proposal for a state of emergency.

As everyone knows in drafting, we have any number of references to the involvement of the Governor and, under our system of government, under both Labor and Liberal, the Governor operates under the advice of the executive arm of government, and that is the Premier and the cabinet. Appointments are made by the Governor, a whole variety of decisions are taken by the Governor, but they are not taken by the Governor—they are actually taken by the cabinet and the advice goes to the Governor and the Governor signs off on it.

It is technically correct that a Governor could refuse to, and we have seen a circumstance at the federal level with the Governor-General, but I am not aware of any circumstance on the South Australian scene when that has occurred. Under Labor and Liberal governments, governors have taken the advice of the executive arm of government, particularly if it was an issue of a state of emergency being declared. The government's claim is that under the bill we have before us you will not have to have the involvement of the cabinet and the Governor. It will be a decision to be taken by the Treasurer or the Minister for Energy alone, the Hon. Tom Koutsantonis, in these circumstances.

The other thing the government argues is that under section 3 there is a harder test, in some way, than the test that is going to be in the emergency management act. The test in section 3 of the Essential Services Act to declare a state of emergency is simply:

…where, in the opinion of the Governor, circumstances have arisen, or are likely to arise, that have caused, or are likely to cause, interruption or dislocation of essential services in the State.

The government is arguing that is a tougher test or a higher threshold than the proposed bill, which provides:

If it appears to the minister, on reasonable grounds, that the supply of electricity to all or part of the South Australian community is disrupted to a significant degree, or there is a real risk that it may be disrupted to a significant degree, the minister may declare an electricity supply emergency.

At least one lawyer I have spoken to has a slightly different view from crown law advice to the government. As a non-lawyer, I do not proffer a legal opinion, but he is not convinced of this particular claim of the government; that is, under this particular provision the minister has to on reasonable grounds, and there has to be a real risk that it may be disrupted to a significant degree before you can declare. Under the existing act, the Essential Services Act, it is simply the opinion of the Governor—you can insert the executive arm of government, the cabinet—where circumstances have arisen, or are likely to arise, that have caused, or are likely to cause, interruption or dislocation of essential services.

I will be wanting to explore that with the government advisers in the committee stage because their advice to me, and the minister's advice publicly, has been that it was a tougher test to get this through and a more cumbersome process. We have considered the issue about the cumbersome process, and I am now talking about the toughness of this particular test. I have placed on the public record the government's legal advice in relation to this because I guess we will not ultimately know until it is tested in a court of law somewhere.

The advice I was given in relation to comparing the Essential Services Act and the bill we have before us—and again, I seek clarification from the government and its advisers in the committee stage—is that, essentially, once you have a state of emergency the powers of the minister to direct are essentially the same. That is, this bill is not giving the Minister for Energy any increased powers. If you have a state of emergency, you have passed the test and you have got whoever it is to have made the decision, what you can do in terms of directing AEMO or generators or retailers, in particular, is no different to the Essential Services Act.

That is the advice we got in the informal briefing from crown law advisers, and I will be seeking to put that on the public record and have it confirmed that that is, indeed, the advice that was given to the government. Essentially, it is not giving any additional powers at all, and, as I said, the Treasurer sort of conceded that during the debate in the House of Assembly when he said, 'Look, I've already got these powers, but the process is more cumbersome in terms of being able to activate them.'

The other point to note is that under this bill, if it were to be passed in the parliament, we were advised that the Essential Services Act remains. So, if this bill passes we will have the Minister for Energy with the power to declare a state of emergency, but there will still be the power for the Attorney-General to declare a state of emergency under the Essential Services Act. We will need to confirm that with the government's advisers, but it appears that the Attorney-General would still have the power to declare a state of emergency as well as the Minister for Energy under this particular act. Why that should be the case is a question the government needs to address.

The other act that exists is the Emergency Management Act 2004. This introduces even more elements of intrigue and confusion, because under this act the state coordinator, who is the police commissioner, has extraordinary powers to declare, in essence, states of emergency. There are three different levels under sections 22, 23 and 24. The first is section 22—Identified major incidents, the second is section 23—Major emergencies and the third is section 24—Disasters. Again, we will seek confirmation during the committee stage, but this decision is entirely one for the for the police commissioner to take, and the police commissioner alone. Subsection (1) of section 22—Identified major incidents, provides:

If it appears to the State Co-ordinator—

that is the police commissioner—

that the nature or scale of an emergency that has occurred, is occurring or is about to occur is such that it should be declared to be an identified major incident, the State Co-ordinator may declare the emergency to be an identified major incident.

There is a separate provision in section 23 which says that the state coordinator can declare a major emergency and, in section 24, declare a disaster. If you look at that particular provision, which already exists, the police commissioner does not have to have what the Treasurer and the government have referred to as 'the cumbersome process of going to cabinet', 'the cumbersome process of going to the Governor for approval' and what the government claims is 'a cumbersome process of convincing the Governor that a state of emergency or an identified major incident should be declared.'

The advice given to me is that the police commissioner acting alone, without cabinet or the Governor, can declare, in essence, a state of emergency under these three definitions. When you look at what is the test—because this was the issue the government raised earlier in relation to comparing the Essential Services Act with this new bill—the test that the state coordinator has to meet would appear to be a very easy test.

The state coordinator just has to satisfy himself that the incident or the scale of the emergency is such that it should be declared to be identified a major incident. It is his judgment and his judgement alone in terms of declaring the emergency to be identified a major incident. It would appear to be either no threshold at all or a very low threshold when compared to the threshold under the Essential Services Act and the one that is being inserted into this legislation, because in this legislation the notion of reasonableness has to be included and there also has to be a real risk, which is included in the test under clause 27B of the bill before us.

The remaining issue then is: what are the powers? The advice that was given to me when I put the question was: what power does the state coordinator have (the police commissioner) once he has declared an identified major incident, a disaster or a major emergency? The crown law advice to me was, 'It's arguable that he has the same powers as the minister will have under the bill.' But, in terms of the bill, the government was arguing, 'We just need to make it quite clear that we have the powers.' The government's advice is that it is arguable that the police commissioner and the state coordinator has those powers, as follows:

When you look at the functions and powers of the state coordinator, he has the following functions: to manage and coordinate response and recovery operations in accordance with this act and the SEMP; if an identified major incident, a major emergency or disaster is declared under this act, to ensure the SEMC is provided with adequate information in order to fulfil its monitoring functions under this act; and to carry out other functions assigned to the state coordinator under this act.

When you look at the management of emergencies and the various other powers that may be exercised powers of the state coordinator, under section 25, he has extraordinarily wide powers. He can:

(d) direct the owner of, or the person for the time being in charge of, any real or personal property to place it under the control or at the disposition of a specified person;

In essence, he can direct anybody to place the control of their power plant, their asset, their building or whatever it is under the disposition of himself or, indeed, of anyone the police commissioner nominates. Under section 25(2)(i), he can:

direct a person who is in a position to do so—

(iv) …to perform any operation in relation to any plant, equipment, apparatus or device;

Again, that would appear to give the police commissioner the power to direct anybody to do anything in relation to plant, equipment, apparatus or device—that is, anything that operates a power plant, for example. Subsection (2)(m) provides:

direct, insofar as may be reasonably necessary in the circumstances, any person…to assist in the exercise of any power under this section;

The powers that the state coordinator has appear to be extraordinarily wide and significant. As I said, the crown advice given to me in the briefing was that it was arguable that the police commissioner does have the same powers as will be given to the Minister for Energy under the bill but, to put it beyond doubt, the government wanted to be explicit in terms of the bill we have before us. We therefore have two existing bills and I am advised—and, again, we will have to explore this in the

committee stage—that it is proposed that the police commissioner will continue to have these wide powers even once this bill is passed.

Whilst the Minister for Energy will have the power to declare, in essence, an electricity state of emergency, the police commissioner will still have this power as the state coordinator to declare a state of emergency and would have the power to impose all those powers, except that there is to be a restriction that, if the Minister for Energy uses his powers under this act to direct the generator, the state coordinator will not be allowed to use his powers to direct the same generator.

You will not be able to have conflicting directions by two different people under the Emergency Management Act to a generator under the government's proposed amendments to the bill. Nevertheless, there will be a set of circumstances where, if the Minister for Energy does not declare a state of emergency, it would still be possible under this legislation for the state coordinator, the police commissioner, to declare a state of emergency or, as I said, for the Attorney-General under the Essential Services Act to declare a state of emergency.

Under the government's arrangements, we will still have three separate individuals—an attorney-general, a police commissioner and a minister for energy—who, in differing circumstances, can all declare varying levels of states of emergency with varying powers in the future. Again, I think it is incumbent on the government in the committee stage to explain why this set of circumstances remains as a result of the amendments we have before us and whether or not they see any potential conflicts.

I will now look at the bill and how it might have applied to the 28 September statewide blackout. As you know, I placed on the record that Treasurer Koutsantonis has said that, if he had had these powers, he single-handedly would have been able to prevent the statewide blackout because he single-handedly would have been able to run the complicated National Electricity Market better than anyone else and he would have been able to take action.

What do we know about the circumstances that occurred on that particular day? I am indebted to the government advisers. I put some questions to the government advisers and they were able to provide a number of responses that answered at least a number of those questions. We know that the system black event occurred at 3.48pm Australian Central Standard Time on 28 September. Seven minutes later, AEMO suspended the operation of the spot market.

Between 4 o'clock and 5.30, we know that the Emergency Management Council and the cabinet were meeting concurrently in nearby rooms or wherever they happened to be, so that cabinet ministers could go from Emergency Management Council to cabinet, or whatever happened to be required by the laws that were operating at the time. Within the next 90 minutes, we know that parliament was closed down. The minister said that they had to go off to Emergency Management Council meetings and to cabinet, and those meetings were going on.

We know that at 5.30, so in essence 90 minutes later, the legislation and the process that was used by the government was that the police commissioner was used as the State Co-ordinator, under the Emergency Management Act, to make a declaration of identified major incident pursuant to the Emergency Management Act. The essential services legislation was not used at that time, which is the power that the Attorney-General has to issue directions.

The police commissioner, acting alone, without the advice of cabinet or having to take the advice of cabinet, and without having to go to the Governor, issued under section 22 of the Emergency Management Act a declaration of an identified major incident. That is the lowest level. The next level is emergency, and the highest level is disaster. He issued a declaration of identified major incident and had all the powers that I outlined he had during that particular period.

Given that the Treasurer is saying that he single-handedly, if he had these powers, would have been able to prevent the statewide blackout on 28 September, and given that crown law has conceded to me that it is arguable that the police commissioner did have the power as the State Co-ordinator to direct generators, retailers and AEMO and all this bill was doing was putting it beyond doubt and giving it to the Minister for Energy, given that the crown law advice was that it is arguable that they had that power, did the government consider using that power? If they did consider it, why did they not take up that particular option at the time, given that Treasurer Koutsantonis is saying

that if he had had these powers back on 28 September, he single-handedly would have been able to solve the problems of the statewide blackout?

We know that an identified major incident was declared under the Emergency Management Act. We know that crown law advice to me is that it is arguable that the police commissioner had the power to direct generators and AEMO in relation to constraining the interconnector. If indeed that is the case, what did the government consider at that particular time if, as I said, the Treasurer is now claiming that, if he had had these powers, he would have been single-handedly able to do a better job than anybody else in the nation or the world in terms of preventing the statewide blackout on 28 September?

The following night, at 8.09 Australian Central Standard Time on 29 September, AEMO received a ministerial direction issued by the South Australian government to suspend the market in the South Australian region until the direction was revoked. That direction was issued by acting attorney-general Snelling using the essential services legislation. On the night of the blackout on the 28th, the Emergency Management Act was used with the police commissioner, who acted alone, and did not need cabinet or the Governor.

Just over 24 hours later, using the Essential Services Act, the acting attorney-general, I assume having gone through cabinet, got the advice of the Governor and, having it signed off by the Governor, issued the direction to AEMO in relation to suspending the market in South Australia. Those are the circumstances that have been outlined to us by the government's advisers. There are many questions that arise from that chronology that the government advisers have provided to us, which, as I said, we will need to explore in the committee stage of the debate.

This now comes to the issue of the Treasurer's claim that he would have been able to solve all the problems. The issue now comes to the nature of the advice that the Treasurer was receiving on that day. A number of questions were put to the Treasurer in the House of Assembly debate by my colleagues, the members for Bragg and Stuart, who said, 'Okay, if this bill passes, you're going to have the power. Who is going to be advising you in relation to the exercise of these considerable powers?'

A lot of the advice is going to come from senior officers in the energy and technical regulation division of the now Department of the Premier and Cabinet, including Mr Vince Duffy, a long-serving and respected public servant, and Mr Rob Faunt from the Office of the Technical Regulator, which I am advised is part of the energy and technical regulation division, although it has a separate statutory function, and they have respective roles. The advice that the Treasurer gave in the House of Assembly debate is that he would be taking advice from Mr Duffy, Mr Faunt and other officers within those units.

I am not sure (tongue in cheek) of the extent of the meteorological expertise of Mr Duffy and Mr Faunt. I do not know Mr Faunt, but I do know Mr Duffy, and I suspect his meteorological knowledge is about the same as mine: we are very interested but we would not proclaim to be experts. The issue with these particular powers is that the minister, in terms of predicting storm events and potential emergencies, will in essence set himself up to second-guess the advice that is being provided to AEMO and the other market operators.

It is sensible to be saying that the Treasurer said, as I took one of the quotes, that on the morning on the 28th—that is, before lunchtime—he would have constrained the interconnector. We know through freedom of information documents provided by the member for Stuart about the nature of the advice the departmental officers and his ministerial advisers were providing the Minister for Energy, Mr Koutsantonis. The most senior and significant one was provided at 11.06am, just before lunchtime. What was the advice to the Treasurer and Minister for Energy, Mr Koutsantonis, on that particular day? There is an email from chief of staff Jarrad Pilkington at 11.06 on 28 December that states, 'Even with the weather conditions, we don't expect this to be an issue'—this being concern about the electricity system.

According to the Minister for Energy, Mr Koutsantonis, questions were being asked directly to AEMO executives. Mr Duffy and Mr Faunt were having their discussions with National Electricity Market operatives—people from AEMO and others—in terms of, 'Hey, we've got a big storm coming. There are all these particular problems. Are we going to have problems? Should we constrain the

interconnector?' The advice coming from AEMO, which is now being criticised, was, 'No, there won't be any concern'. As it turned out, it was wrong advice. That is the advice they received.

However, what was the advice the Minister for Energy, Mr Koutsantonis, was receiving? He was receiving exactly the same advice. By 11.06am, Jarrad Pilkington, his chief of staff, had consulted with the senior advisers within the Department of the Premier and Cabinet and the Office of the Technical Regulator—all of the gurus that the government uses to provide advice. The same advice was given to the Minister for Energy, and let me quote it again: 'Even with the weather conditions, we don't expect this to be an issue.'

Yet, of course, with the political spin, the million-dollar advertising campaign, this particular problem that the government has in terms of managing electricity, minister Koutsantonis says, 'In the morning, I would have constrained the interconnector and solved the problem.' He says he listens to the people who advised him, yet all his advisers were saying, 'Don't do that, there is not a worry', which is the same advice that came from AEMO. Yet, he says publicly and in the parliament, 'In the morning I would have constrained the interconnector and I would have had extra thermal generation going.' That is just errant, palpable nonsense; it is garbage.

Sadly, that is the sort of garbage we have to listen to, the sort of claims that the Treasurer and Minister for Energy has been making in relation to his own supposed magnificence in terms of being able to single-handedly run a national electricity market better than anyone else in the world and single-handedly protect the state from that particular statewide blackout.

The challenge is back to the government and its advisers in this particular chamber to rebut the freedom of information documents. It is clear advice from the minister's chief of staff, his most senior adviser, saying, 'We don't have a problem. Houston, we don't have a problem.' Yet, the minister is now saying that in the morning he would have made the decision to constrain the interconnector and prevent the statewide blackout.

The final issues I want to address in the second reading—and, again, we will need to explore them in greater detail in the committee stage—I was advised in the briefing that essentially, under the bill that we have before us, there are two proposed models of action that the government will have available to it. One is that the Minister for Energy will have the power, if there is to be this electricity state of emergency, to directly direct AEMO, and that AEMO would then direct the generators and retailers in terms of what needed to be done.

The other alternative was that the minister could bypass AEMO, in essence, and direct the generators and retailers directly himself. So, there were two particular models. In terms of what model the government might follow, the minister made that pretty clear during the debate in the House of Assembly. He said:

> It is very hard to give these hypothetical scenarios the justice the house deserves because every scenario is different. In my mind, and I think in the agency's mind, the main powers would be to direct AEMO to direct generation on or to suspend the spot market in the case of something potentially occurring or to direct generation on.

The two models, which essentially the bill allows, are either directing the generators and retailers directly, and bypassing AEMO, or directing, under this legislation, AEMO to then direct the generators and retailers. The Minister for Energy made it quite clear in the House of Assembly that, in his mind and in the agency's mind, the main powers would be to direct AEMO to direct generation in relation to that.

That then raises some significant questions in relation to compensation and various statements that have been made about compensation. I refer to a briefing paper, Operation of the intervention price provisions in the National Electricity Market, effective date 10 March 2011. These were provided by the government advisers and they advise me that these are the current provisions which relate to compensation. On page 6 of that particular briefing paper from AEMO, it makes it clear as follows:

> Compensation—Intervention pricing does not trigger compensation directly. If any scheduled generating units, scheduled network services (such as Basslink) or scheduled loads (apart from those subject to a direction or reserve contract) are dispatched to different targets or settlements residue distributions are directly and materially changed because of the intervention, then AEMO [then] determines the compensation to be paid by or paid to each Affected Participant. Affected participants may make submissions to AEMO claiming additional amounts taking into

account direct costs such as fuel, incremental maintenance and manning costs, energy and ancillary service payments at the regional reference price.

That provision makes it quite clear that, if AEMO is directing generators to do things that might not be in their commercial interest, compensation is payable. There is a complicated process, which the government advisers sent me, in the national electricity rules in terms of the formulae that are to be used in terms of how much can be claimed and determined. There can be an independent arbitrator for the interminable arguments that will go on should there be these circumstances, but the national electricity rules clearly countenance, under the government's proposed course of action, compensation being potentially payable. Clause 8 of the briefing paper, Compensation Recovery, states that:

> Any compensation that AEMO pays due to intervention in the market is recovered from Market Customers in the regions benefiting from the intervention (i.e. direction or reserve contracting). Compensation payments and recovery amounts are shown on preliminary and final settlement statements for the billing week in which the compensation determination is published to the market.

Put simply, what that means is that compensation can be paid to the generators or retailers, and then it will be the customers in South Australia who will have to pay through increased prices. That has not been the statement made by the Minister for Energy when he has been asked the question about compensation.

I place on the record, and I will be placing on the record during the committee stage, the advice given to me by crown law and government senior electricity advisers, and from these documents that have been sent to me, that it is quite clear that, given the government's clear intention to go down the process of directing AEMO—as the Treasurer, or Minister for Energy, indicated in the House of Assembly debate—under these particular provisions compensation would be triggered and those additional costs would be payable by the consumers in South Australia.

The final issue I want to raise, and again I will seek a response during the committee stage of the debate, is that under the essential services legislation, which as I said is not going to be changed by the government so you will still have the power under the Essential Services Act, there is a provision under the Essential Services Act that if the government, through the Attorney-General, fixes a state of emergency and directs retailers and generators under that particular provision, that the minister may, by notice published in the *Gazette*, fix maximum prices in relation to the sale of specified goods or services during a period of emergency.

The reason this question has been raised with me is that this power has existed for quite some time but it has never been utilised, and operators in the National Electricity Market and others have contemplated the rules that existed, and government intervention would only occur in exceptional circumstances. People are now saying to me and to others, 'Clearly, the rules have changed, and this particular government is rewriting the rules in terms of this particular legislation, so where does this particular power now sit?' That is—and I will be asking the questions—is it correct, as has been advised to me, that if the government, at some stage, was to use this particular provision, that it has the power, whilst the market is suspended, to fix the maximum prices for a period of time of an emergency during that particular period.

I do not know the answer to that, but the minister will have crown law advisers available to him and we will be seeking to get those answers placed on the public record and some assurances given to people who have been raising these particular questions. There are countless other minor issues in the bill that will be raised during the committee stage; I do not intend to pursue those during the second reading. I again indicate that the Liberal parliamentary party room's position has been to support the second reading and to not oppose the passage of the legislation.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (20:54): I rise to make some brief, but not too brief, comments about the government's Electricity Management (Electricity Supply Emergencies) Amendment Bill. As my colleague the Hon. Rob Lucas has put on the record, the opposition will be supporting this bill. I thought earlier that maybe I would not speak, as we are obviously after dinner and the government wants to rush this through. I asked the messengers for a copy of the bill, but it has been so rushed that we do not even have a Legislative Council copy. I have the House of Assembly copy, which is one of the rare times in this place when we have seen things

rushed to this extent. Of course, we did give the undertaking that we would pass it this week, but we are doing it here this evening. As I said, I was not going to talk about this bill.

We are in a First World, modern, sophisticated society, and I have recently had the opportunity to travel to other parts of the world. We claim, and I think rightly so, that Adelaide is one of the best cities in the world, and *Lonely Planet* says that we are one of the best places to visit. I think Adelaide Oval is in line, or hopefully in line, to win some world award for being a great place. We are constantly being told that where we live—Adelaide in South Australia—is one of the best places in the world.

Yet if I look at the little journey I have been on in my lifetime, Mr Acting President—and I can be so rude to say that probably your lifetime is a little longer than mine, but not as long as some of those opposite, who are quite young and wet behind the ears—I can remember that, as a small child, my family's farm embraced renewable energy. In fact, I could not have a bath at night if we had not had wind for two days because the windmill that pumped out of the underground tank and filled the high tank to give us water in the house would be empty.

This is very sophisticated: we then went to what I think was a small Dunlite generator, which was a little windmill in the backyard that charged some batteries, and that of course was very good renewable energy. Then we became even more sophisticated. We had a Lister diesel engine and some batteries with 32-volt electricity, so we went from no electricity to 32-volt electricity. I can recall that when I was about five or six years old we went onto mains electricity.

The Hon. J.E. Hanson interjecting:

The Hon. D.W. RIDGWAY: An interjection from Mr Hanson. I did not hear that, but obviously it was a sensible interjection.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): It was out of order.

The Hon. D.W. RIDGWAY: The local Bordertown electricity house had a small generator that supplied electricity, so we had very unreliable renewable electricity and a very unreliable diesel generator with batteries. We had a better system with a local electricity provider, and then, of course, Sir Thomas Playford brought all those small units together to form ETSA. As the Hon. Rob Lucas said, it was a federal Labor government, supported by a state Labor government, that formed the National Electricity Market.

Every time we stepped down the journey, we became more connected to more generation and more capacity. Our system became more secure, and so a National Electricity Market was created. Overseas, in some of the European countries they have a very high penetration of renewable energy. The reason they are so well organised in Europe is that they have a very high level of interconnectivity. If something goes down, the wind does not blow, the sun does not shine, the generator collapses or whatever, there is such a high level of interconnectivity.

That is the journey we have been on in my lifetime. Now we are going the other way. This government's current plan, and this bill, is to remove themselves from the national market, to be an island, if you like, an independent. Everybody is being encouraged to have batteries at home, and some people are talking about diesel generators. In fact, the other day I was speaking to somebody who was building a house, and he talked to his builder in Malvern about putting solar panels on his roof. He said that he has had three people ask him whether it was viable to put diesel generators in their backyards in the suburbs of Adelaide.

Such is the journey we have been on: we have gone full circle. Why have we gone full circle? As the Hon. Rob Lucas said, this government, the members opposite, were sitting there squealing like stuck pigs earlier. You just have to look at the journey we have been on. Fifteen years ago, I was elected to this place. The premier at the time, Mike Rann, promised to build an interconnector to New South Wales. This lot opposite often say that could not happen because of something they claim the previous Liberal government had done.

If that were the case, why would you not start the plan we have seen? I know that they have a very expensive communications plan, this plan they have here. We normally get this stuff posted to us—his good friend Martin Hamilton-Smith sends us his export plan with a glossy—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Martin Hamilton-Smith.

The Hon. D.W. RIDGWAY: I struggle with that. The Minister for Trade sends us a glossy document. I am surprised—

The Hon. K.J. Maher interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! Will the Leader of the Government please be silent.

The Hon. D.W. RIDGWAY: Chuck him out. I am surprised that they have not actually sent us a copy of it. If the interconnector was so important and it was the previous government that thwarted it, why does this plan not have an interconnector? Why did you not start earlier? That is the joke of this government: they have sat on their hands with their head in a bucket of sand for 15 years hoping that these problems would never arise, yet they got warning after warning that it was likely to happen.

It is interesting that they are happy to quote what the previous Liberal government did, but I remind them that the warnings started back in 2003 when, well before they were ministers, the Hon. Gail Gago and the Hon. Tom Koutsantonis were on the ERD Committee. The Hon. Gail Gago rose to be the third most important person in the government, a senior member of cabinet, and the Hon. Tom Koutsantonis still is. I remember that in 2003 Mr Lew Owens, the head of ESCOSA, gave the following evidence:

> As you start to increase the quantity of wind power coming into the system up to 100 megawatts, 200 megawatts or whatever, you start to cause instability in the rest of the system. For example, if you had 1,000 megawatts of wind energy coming in, most of the base load stations in South Australia would be required to shut down and then to start them up again is a 10-hour operation.

This was 12 years ago. He went on to say:

> There are technical problems and limits with having large amounts of wind power in our distribution and transmission system.

I was on the committee at that time, as I said. Apparently, this warning fell on deaf ears. The Hon. Patrick Conlon, in a submission to the ERD committee in September 2003, said:

> To set a state-based renewable energy target may result in higher energy costs for South Australia compared to other states.

The Electricity Supply Industry Planning Council gave the following advice to ESCOSA in April 2005:

> Wind development SA at 800 megawatts and at 1,000 megawatt cases pose significant risks to the reliability and security of the South Australian power system.

In 2005, ESCOSA stated:

> The reliability and security of the South Australian power system was at significant risk in the absence of upgraded conditions for network connections, high-quality wind forecasting and the proper arrangements to integrate wind generators more fully into the NEM.

And it goes on. The next warning is from the National Institute of Economic Research, in advice to DPC in May 2009:

> Limitations on wind power output to ensure South Australia's grid stability is estimated to be associated with about 20 per cent limit on wind capacity.

The view of ESCOSA in 2009 was, as follows:

> The commission remains concerned with the long-term safety and reliability of the electricity system in South Australia with 867 megawatts of wind generation.

On 22 June 2011, the then premier Mike Rann said:

> We face a number of challenges. Some of these relate to the intermittent nature of wind generation.

A joint AEMO and ElectraNet study in October 2014 stated:

> Having a high proportion of wind and photovoltaic generation can present a risk to South Australia if the Heywood interconnector link to Victoria is disconnected at a time when all local conventional synchronous generators are off-line.

Here is another warning from AEMO in October 2015:

> The intermittency of wind generation, leading to sudden changes in supply and demand balance, makes managing the power system more challenging.

Finally, a joint AEMO and ElectraNet report in February 2016 stated:

> Withdrawal of synchronous generation and the growth of wind and rooftop photovoltaic generation in South Australia is making the power system more susceptible to rapid changes in frequency and to larger frequency deviations following a separation event.

The first of those quotes is from 2016 and last one is from February 2016—over 13 years, the government had all these warnings. I think the people of South Australia are asking themselves: why did we have to fly off the cliff or run into the wall with our power security now, in February 2017, when there were warnings given for the last 13 years?

They claim that they could not build the interconnector because of something the former Liberal government had done before the 2002 election, but they had had warning after warning, and now we see this plan, with batteries, gas-fired power stations and backup diesel generation, which I will come to shortly.

Why have you not done it earlier? Governments are elected to look after and protect the interests of South Australians. The question you have to ask yourself is: why are we now in this set of circumstances where we need emergency legislation to give the minister powers? My colleague, the Hon. Rob Lucas, has quite extensively covered whether we really need them. Of course, the minister claimed that if he had these powers he would have been able to stop the blackout in September last year. However, the question you have to ask yourself is: why did they not do it earlier?

They have all the advice. The advisers are sitting here waiting to try to help the minister answer questions that will be asked of him shortly. There is a lot of advice. There is a lot of expert advice. During question time today, there was some interjection—out of order, I know—about the expert advice they had been given in the preparation of the plan. Where was the expert advice? I have just listed 10 or a dozen occasions where they were told, in the last 13 years, that the system we had was under threat. Why did they not take some measures?

I am not attacking renewable energy per se but, if we are going to go on a journey with a large amount of renewable energy, we need to have a better system to manage it, and we simply have not done that. It is interesting that we currently have a select committee—it may be out of order to refer to select committees in debates—but, in my recollection, I do not think ESCOSA has ever been asked for advice by the government in relation to their renewable energy policy. They have never been asked to comment. The Essential Services Commission of South Australia (ESCOSA) looks after the reliability, price, frequency and supply of essential services, yet they have never been asked.

Not only did the government not heed the warnings from dozens and dozens of experts that the system they were presiding over was at risk and needed some intervention, until we fell off the end of the cliff, but even ESCOSA was never asked. You really have to ask yourself: where on earth has this government been for the last 15 years? Of course, what has happened is that their failure to act and listen to advice and their arrogance in not actually asking ESCOSA has cost every business. I think the cost that Business SA placed on the statewide blackout was some $400 million. That is $400 million that businesses will never, ever get back. It has gone. It is a loss.

We had a significant storm event and minister Koutsantonis says that, if he had had these powers, he would have been able to prevent that blackout. However, at the end of the day, why have we got ourselves in this situation? It beggars belief that we have a modern First World economy—we are sophisticated, well educated and smart people who are proud of our great state—yet we are now in a situation where we are laughed at by the rest of the nation because we have not managed the transition properly.

I know that there was a whole discussion around the power station at Port Augusta. It could have been kept open for another 18 months or so. The government knew about Alinta's plans and knocked them back, yet we only had the crisis plan in February and they started acting on it. Once they knew they could not do a deal with Alinta, why did they not start on the plan at that point? But

they did nothing. You have to ask yourself the question: why have they never acted? At the end of the day, it is clearly either arrogance, stupidity, that they just did not understand or, as I suspect, that they just thought, 'We'll just gamble on the future of South Australia and hopefully we will get away with it.'

There are a few questions I would like to ask in the committee stage of the bill regarding the six-point plan that the government released. We know that a $360-million gas generation plant will not be built before this coming summer, as the Hon. Rob Lucas says, and maybe not even before the next summer. Tragically for South Australia, I suspect that if the current government is returned, they may not even build it. Who knows? They cannot even open a hospital that has cost twice as much. How do we know that it is going to be $360 million?

I note in their plan that their final costings and details will be released in the budget. This government has a track record where every project they have ever touched has been more expensive and taken much longer to deliver than planned. In fact, like the hospital, they have not been able to deliver it as yet. I will be interested to see over time the evolution of this $360 million gas plant in the next 340-odd days before the next election.

I am also interested that one of the interim measures is to put diesel generators in our suburbs, in substations near every one of these people in this chamber, everybody who came in today to view in the gallery. A diesel generator is coming to a substation near you. One of the questions that I will be posing to the minister during the committee stage will be about how Tasmania did that when Basslink went down.

What was the cost per megawatt hour of energy produced by diesel generators during the Basslink outage? We know it cost about $50 million to lease and put into place the 200 megawatts of diesel generation, and we think that it was about $14 million in operational costs every three months thereafter. But I want to know the cost per megawatt hour, because in the end that is what is passed on to the consumer. Then, of course, we have a battery system that the Premier says will be the world's largest battery system, and I will have a range of questions in relation to the battery when we get to the committee stage.

I have on my iPad here in the chamber the National Electricity Rules Version 90. I am not sure whether the minister will be able to answer it but I will flag it now so that the adviser knows. They say here that this is the latest electronically available version of the National Electricity Rules, dated 6 April 2017. There are a number of references on the front page to South Australia having amended them and other states having followed, so we all know that we are the lead legislator in this particular case.

If you look at all the warnings the government was given over that 13-year period, couple that with the fact that we are the lead legislator, I think it is a bit rich for the minister and Premier to say that the market is broken, the rules are broken, when we have been at the forefront of it. We have been the lead legislator. There are 1,500 pages or so of them, and I have not had time to read them this afternoon, but in relation to those rules, how do we change them?

The Treasurer and energy minister says the rules are broken and the system is broken. I would like to know how complicated it is to change those rules because clearly if we had had issues along the way, why would we not have been adjusting the rules to match our generation circumstances and these rules so that we were not left exposed, then having to have the issues we have now with this bill and now, as a state, wanting to remove ourselves from the national market and be islanders?

With those few words, I look forward to the committee stage. As I said, I will be interested in looking at how the rules are made and changed and the process we go through for them, and also some of the issues around the cost per megawatt hour of the diesel generators that were available in Tasmania. I am sure in the expert advice that the minister has alluded to during question time, they will have canvassed that, so they will know the sorts of prices they will be exposing the South Australian people to.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (21:13): I thank honourable

members for their contributions. I note the guarantee that has been given by the member for Dunstan, the Leader of the Opposition, that this bill will pass this chamber today. I note that it took some in this chamber by surprise. It appears that no-one from the leader's office had informed anyone in the Legislative Council. Nonetheless, that is sometimes how the opposition operates. I am glad that the message has finally got through and that we are going to be considering this bill tonight. I look forward to the committee stage.

Members interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order!

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The ACTING CHAIR (Hon. J.S.L. Dawkins): There are 11 clauses and there are no indicated amendments. Obviously we were made well aware in the second reading debate that there will be questions. Minister, have you got some answers to provide?

The Hon. K.J. MAHER: I have got advisers coming in now.

The ACTING CHAIR (Hon. J.S.L. Dawkins): So, at clause 1 you will bring some answers back.

The Hon. K.J. MAHER: Well, I do not want to particularly for specific questions, but I am happy to take questions.

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Mr Lucas.

The Hon. R.I. LUCAS: Mr Acting Chairman, consistent with what the minister has just said, given that the timetable has been shortened somewhat, the simplest thing might be that we do the majority of questions perhaps on clause 1. It would make it easier, given there are only a relatively few number of clauses anyway. I was offered a briefing yesterday afternoon. My briefing at 11 o'clock finished a bit after 12 o'clock today. At that stage I had been working under the misapprehension that we were going to get the bill through by Thursday, so I have not had the capacity to tidy up my questions into the appropriate clauses. Consistent with what the minister has just said, if we do a good chunk of them at clause 1, it will probably reduce the amount of time later in terms of repeating questions that might need to be followed through.

There were a number of things that I wanted to place on the record because, given the shortness of time, the minister has not had the capacity to get a written response at the second reading stage to provide answers to questions that I was provided privately by government advisers. I want to get that advice placed on the public record in terms of the operation of the bill and the existing powers within the act.

I start with the existing powers under the Emergency Management Act and the existing powers under the Essential Services Act. I do not think there is anything wrong with the minister having both a legal adviser and a technical adviser there, rather than them having to get up and down all the time, although I am not sure whether the clerks would be happy with that. I will try to direct my legal questions firstly, and work through the others. In relation to some of the legal issues, can the minister confirm, firstly, that the Essential Services Act will continue even with the changes to the Emergency Management Act that are contemplated here?

The ACTING CHAIR (Hon. J.S.L. Dawkins): We will be bringing the other adviser out so that we do not have to be jumping up and down. We are getting another chair. Minister.

The Hon. K.J. MAHER: I thank the honourable member for his question. My advice is, yes, that act will remain in place. However, in response to some of the preamble the honourable member has placed on record at the start of his question saying he was only offered a briefing yesterday, I need to correct the record. That is just not the case. I have in front of me an email to his office offering a briefing a week ago on Tuesday 4 April, which was not responded to. It was followed up diligently

by the energy minister's office yesterday, six days later, saying, 'Would you like the briefing? This is going to move forward.' It is a half-truth to suggest a briefing was only offered yesterday; a briefing was offered a week ago.

The Hon. R.I. LUCAS: I am happy to stand corrected on that. As I said, the bill had not even been introduced in the Legislative Council. I tend to take the briefings as the bills arrive on our agenda. It was not on the agenda.

An honourable member interjecting:

The Hon. R.I. LUCAS: I am happy to stand corrected. There was evidently an earlier email that I did not respond to. I responded to the one yesterday, when I was advised that we received the priority list from the minister's office which indicated the number one priority of this week was going to be the bill, which was not actually even on our *Notice Paper* at the time.

However putting all that process issue to the side, in relation to the Essential Services Act, the minister has confirmed it will continue, so the government will still have the power to allow the Attorney-General to declare periods of emergency under the essential services legislation. Why, given the proposed changes to give the Minister for Energy powers over the emergency management act, does the government believe the Attorney-General needs to continue to have powers to declare periods of emergency?

The Hon. K.J. MAHER: I am advised that this may be a misunderstanding. Under the Essential Services Act it is not for the Attorney-General. Division 3 talks about 'in the opinion of the Governor', so it is not the Attorney-General but the Governor.

The Hon. R.I. LUCAS: Give me a break. A significant number of pieces of legislation provide that the Governor shall issue proclamations, or whatever it is, on the advice of the executive—

The Hon. K.J. Maher: It is not the Attorney-General then, is it?

The Hon. R.I. LUCAS: No; the legislation—

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order! There is one member on his feet and he will get the call. The minister has the chance then to get on his feet and respond. The Hon. Mr Lucas.

The Hon. R.I. LUCAS: Is it correct that the Essential Services Act is committed to the Attorney-General?

The Hon. K.J. MAHER: The act, in its entirety, is committed to the Attorney-General. Acting under what the honourable member is talking about must be done where it is satisfied that in the opinion of the government the circumstances have arisen.

The Hon. R.I. LUCAS: In terms of the opinion of the government, does the minister concede, based on legal advice, that the Governor takes advice from the executive arm of government, which is the cabinet?

The Hon. K.J. MAHER: Yes, and it does so in an Executive Council meeting, but that is very different from the Attorney-General directing, which is what was being put forward before.

The Hon. R.I. LUCAS: Given that the Attorney-General has the passage of the legislation, that is, that the act is committed to the Attorney-General, would it be correct that under cabinet processes it would be the Attorney-General who would take the cabinet submission to cabinet, to Executive Council, in terms of a recommendation to the Governor?

The Hon. K.J. MAHER: I am advised that as a general matter of practice that is likely, but it is not inevitable that that is the case.

The Hon. R.I. LUCAS: Thank you, that is a longwinded way of getting exactly to the point I am making: that the act is committed to the Attorney-General, the Attorney-General in the normal process of government—and I think the minister needs to realise I have actually sat at the cabinet table for a longer period than he has—would take the recommendation to the cabinet, and if the cabinet agreed it would go to Executive Council, and then the Governor. So, it is not the Governor

acting independently taking his or her own advice separate from the executive arm of government, it is a process understood by most people in terms of how governments operate.

In relation to the process under the essential services legislation, my question is: given the changes that are to occur with the emergency management act, where the Minister for Energy will be given the power to declare a state of emergency, why does the government believe the remaining powers in the Essential Services Act should remain under the process I have just outlined?

The Hon. K.J. MAHER: I am advised that the Essential Services Act applies across a whole range of circumstances not just the electricity circumstances that we are contemplating now.

The Hon. R.I. LUCAS: I accept and understand that but did the government and its legal advisers contemplate carving out the electricity in the National Electricity Market, so that the particular powers to direct generators, retailers and AEMO would be constrained within the new amendments to the Emergency Management Act, and be left with the Minister for Energy, and for other emergencies and disasters to be constrained to the Essential Services Act?

The Hon. K.J. MAHER: I am advised that it was not considered necessary to take any powers away when creating this new power.

The Hon. R.I. LUCAS: One of the questions I raised in the second reading and I will repeat now to get the government's response, relates to some of the statements the minister has made publicly, and in the advice that I have received, when compared to section 27B(1) of this new bill. Section 27B—Minister may declare electricity supply emergency—states:

> If it appears to the Minister, on reasonable grounds, that the supply of electricity to all or part of the South Australian community is disrupted to a significant degree, or there is a real risk that it may be disrupted to a significant degree, the Minister may declare an electricity supply emergency.

It was argued to me, and the minister has argued publicly, that this will be an easier test to meet than under the Essential Services Act where the government (and the Governor, but ultimately the government) meets the test which in the opinion of the Governor are circumstances that have arisen or are likely to arise that are likely to cause interruption and dislocation of essential services.

Can the minister, based on the advice he will receive, put on the record what the government's position is as to why they believe the test that the minister must meet under 27B(1) is, in essence, a lower threshold than the test that the government must meet under section 3(1) of the Essential Services Act?

The Hon. K.J. MAHER: I am advised that, under the Essential Services Act, it contemplates that circumstances have arisen (so they have already actually arisen) or are likely to arise, such as a storm event being more likely than not to arise, whereas in the bill that we are contemplating at the moment under section 27B(1), it is that there is 'a real risk' rather than 'is likely to arise'. For example, a 45 per cent of a storm doing great damage might not constitute 'likely to arise' but it may constitute 'a real risk'.

The Hon. R.I. LUCAS: So, the minister's legal advice is that, essentially, 'a real risk' is a lower threshold than 'likely to cause'?

The Hon. K.J. MAHER: I am advised, yes.

The Hon. R.I. LUCAS: The other issue that was raised in the briefing that I had was in relation to the issue of powers. I asked the question: will the powers the Minister for Energy will have under the proposed bill to direct generators, retailers and AEMO be any stronger or any different than the powers the Governor or the government (depending on however you want to construct this) would be able to have under section 3 of the Essential Services Act?

The Hon. K.J. MAHER: I am advised that the new bill puts beyond doubt a power to direct AEMO. There is no express power to do that under the Essential Services Act.

The Hon. R.I. LUCAS: Can I have that clarified because that was certainly the answer given to me when I asked the question about the Commissioner of Police as the state controller, and I will come to that in the Emergency Management Act, but that was not my recollection of the advice that crown gave me in relation to the Essential Services Act.

I think I incorrectly referred to section 3 of the Essential Services Act. Under section 5, the minister 'may take over etc the provision of essential services', section 6 provides for the power to require information and section 4 relates to directions in relation to proclaimed essential services. Can I just clarify this, and I will repeat the question. In relation to the powers to direct a generator, retailer or AEMO, which are proposed in the bill, do those powers exist in the Essential Services Act if that act were followed?

The Hon. K.J. MAHER: I am advised that it is arguable that they do under the Essential Services Act, in relation to AEMO. The Essential Services Act of course was passed in 1981, before AEMO was created or really even contemplated, so that my advice is that it is arguable that they might under the Essential Services Act but this bill makes it abundantly clear and puts beyond any doubt that AEMO is what is contemplated.

The Hon. R.I. LUCAS: Again, I find that strange because, as I outlined in the second reading debate, the government actually used the Essential Services Act to direct AEMO to suspend the spot market. I am not sure that it is an issue of 'arguable'. The government's legal advice, as confided to me in a private briefing, and the action on 29 September, was that the Essential Services Act was used to direct AEMO and there has not been argument about that at all. I am not sure why the argument is that it is arguable: the government actually used the power on 29 September.

The Hon. K.J. MAHER: We think this act is broad enough, but we want to put it beyond any doubt, which is why we are specifically putting it in the bill that is before us now.

The Hon. R.I. LUCAS: Again, the advice I had from the Crown in the private briefing more particularly related to the concerns about the police commissioner, which I will turn to in a tick. It was not raised with me that there was an issue that there might not be the power under the Essential Services Act to direct AEMO, generators or retailers. As I said, the answer to the question I was given was that they had the power. When I got some of the answers back at 3 o'clock this afternoon, they made it quite clear that it was the Essential Services Act that was actually used to direct AEMO and not any other piece of legislation, so I do not think there is any doubt.

It has not been challenged and it appears quite clear in terms of the advice I have had that the powers exist. I will not go through all the sections in detail but under the Essential Services Act, you can essentially do whatever it is you wish in a state of emergency. It would certainly cover directing AEMO, as you have done, or a generator or a retailer. Can I clarify this point. Section 5 and other sections provide that the minister may take over the provision of essential services. Given the discussion we had earlier, is it not correct that the Attorney-General is the minister who takes over the essential services under the essential services legislation?

The Hon. K.J. MAHER: Under the Essential Services Act, I am advised that, yes, in the circumstances outlined in this question, the Attorney-General is the minister referred to.

The Hon. R.I. LUCAS: I just return to the unproductive debate we had at the start when we had the difference of opinion about the Governor. It is not the Governor. As the act outlines, once you have declared this, it is the Attorney-General who has the power under this particular act and will continue to have the power under this act to do things in states of emergency. Indeed, after the 28 September blackout, it was the acting attorney-general who issued the direction to AEMO in relation to the spot market.

In relation to the Emergency Management Act, which we are seeking to amend as I outlined in the second reading debate, again, I want to have the answers placed on the public record. In relation to the powers under the Emergency Management Act for the state coordinator who is the police commissioner to declare under sections 22, 23 and 24 various levels of states of emergency—an identified major incident under 22, a major emergency under 23 or a disaster under 24—can the minister confirm that it is the government's proposal that those powers for the state coordinator or the police commissioner will remain?

The Hon. K.J. MAHER: The answer to that is yes.

The Hon. R.I. LUCAS: Regarding the additional power that is now proposed to be given to the Minister for Energy in relation to the National Electricity Market to direct AEMO generators and retailers, did the government contemplate carving out, from the powers of the police commissioner,

responsibilities in relation to AEMO generators and retailers? If it did, why did it consider it did not need to?

The Hon. K.J. MAHER: I am advised that that is in effect what this bill does. Clause 7 provides that if an electricity supply emergency has been declared under division 6—that is division 6 of the bill before us—then no direction may be given under this division of a kind that could be given under division 6. In effect, in terms of the Emergency Services Management Act, I think it carves that out so that this is the direction that is the one that overrides or has primacy.

The Hon. R.I. LUCAS: Can I have confirmed again the question I asked of the crown law advisers. It is possible, if this bill passes, that the powers still remain; that is, the Minister for Energy can initiate the provisions under the act that will apply to the Minister for Energy for an electricity state of emergency and have the powers, but it is possible that the Minister for Energy does not but that the police commissioner could use his powers to declare the three levels of emergency, and in those circumstances the clause 7 you are referring to would not operate. The police commissioner would be the one capable of directing AEMO, the generators and the retailers.

The Hon. K.J. MAHER: As I understand the question—and if I have not understood this properly, I am sure I will be corrected—if no declaration has been made under the bill that we are contemplating now, then declarations could be made under the Emergency Services Act. The answer is self-evidently yes.

The Hon. R.I. LUCAS: The police commissioner could direct.

The Hon. K.J. MAHER: Well, could direct anything that he can currently do under there, then of course that is the case.

The Hon. R.I. LUCAS: That is my question. I understand the provisions of clause 7; that is, if the Minister for Energy has declared an electricity state of emergency, the police commissioner cannot override the directions to generators, retailers and AEMO. Why does the government believe that you need to leave open the circumstances where, if the Minister for Energy does not do it, the police commissioner as the state coordinator can still do it and direct AEMO generators and retailers?

The Hon. K.J. MAHER: My advice is—and it is probably best demonstrated in an example—that there might not be an emergency that is contemplated in the bill we are talking about now, but there might be some other emergency as contemplated under the Emergency Management Act that is much wider than that but incidentally, as part of whatever that emergency is, there may be a need to disconnect something to stop flammable liquid or cause any supply of fuel, flammable liquid, gas or electricity or material to be connected, reconnected, disconnected or shut off, which may give rise to doing some of the things that affected the electricity market.

The Hon. R.I. LUCAS: Can the minister place on the record the government's advice in relation to the following question about clause 22 of the Emergency Management Act, which we are seeking to amend. As we have just conceded, the state coordinator, the police commissioner, will still have the power in certain circumstances to declare identified major incidents, major emergencies or disasters. Remembering the 28 September blackout, it was the police commissioner who declared it an identified major incident under the Emergency Management Act. Can I clarify that the process the police commissioner takes in relation to that does not require him to take advice from cabinet or to go through any process with the government; that is, the police commissioner can act alone in implementing that particular function.

The Hon. K.J. MAHER: My advice, in answer to that question, is yes.

The Hon. R.I. LUCAS: Clearly, the reason why, at whatever time it was (5 o'clock or 5.30 on the 28th) the police commissioner acted meant that the government, through the police commissioner, was able to identify it as a major incident and declare a state of emergency. Can I also have confirmed on the public record that, in looking at section 22(1) of the Emergency Management Act, the police commissioner's test is almost the lowest threshold? We have talked about the threshold the executive arm of government and the Governor have to apply, and we have talked about the threshold the minister for energy under the proposed bill will need to apply. The Emergency Management Act provides:

If it appears to the State Co-ordinator that the nature or scale of an emergency that has occurred, is occurring or is about to occur is such that it should be declared to be an identified major incident...

There is no definition of an identified major incident in the act. It just says 'see section 22', which is the bit I just read. As long as the police commissioner is prepared to call something an identified major incident—and I am not suggesting that the police commissioner would ever treat this in a cavalier fashion—there is no test. The minister for energy, for example, has to go through real risks and reasonableness. The Attorney-General and the Governor's process is that they have to go through cabinet, and the government has to go through a process of 'likely', and we talked about that earlier. The test for the police commissioner has the lowest threshold of the lot. That was the question I asked of the crown law advice, and my recollection is that they agreed with that.

The Hon. K.J. MAHER: My advice is that it is difficult to categorise this as a lower or higher threshold in relation to the other two examples we talked about. Section 22 of the Emergency Services Act talks about 'should be declared an emergency', and the definition section refers to an emergency as an event. It relates specifically to an event and not to a risk that 'might' happen. My advice is that it is very difficult to use that and compare apples with apples in terms of judging a threshold and whether it is higher or lower, when this refers to an event rather than, as other legislation states, a risk.

The Hon. R.I. LUCAS: Can I challenge that. Section 22(1) talks about 'the nature or scale of an emergency that has occurred, is occurring or is about to occur'. You are not talking about an event that has occurred or is occurring. You might be talking about something that is about to occur, which of course you cannot say has occurred. You have to make a judgement, and the police commissioner makes a judgement that something is about to occur.

I am surprised that the minister, given the crown advice that is available to him, is not prepared to concede—I thought he was prepared to concede in the discussion we had privately—that, of the three tests, from a legal sense, this would seem to be the lowest threshold test that needs to be met. In other words, the police commissioner has to jump a lower threshold and a lower hurdle than the Minister for Energy, the Attorney-General, the government and the Governor through the other process.

The Hon. K.J. MAHER: My advice is that it is difficult to talk about it in the abstract, but there may be circumstances where, yes, this would be a lower threshold. That might not hold true in all circumstances where we are comparing events that have occurred or are going to occur with risks that are prevalent.

The Hon. R.I. LUCAS: On 28 September, the Emergency Management Act was used and at 5.30 the police commissioner issued an emergency, declared it to be an identified major incident and therefore enacted all the powers that existed under the Emergency Management Act. The government's advisers have agreed that it is a very streamlined process because the cabinet and the Governor does not have to be involved.

I think we have eventually reached the stage where, in certain circumstances—but I think in virtually all circumstances—the test the police commissioner had to use was a lower test than the other two. If we put that to the side, the commissioner met that test and he declared it. What crown law said to me was that it was arguable that, under the Emergency Management Act, AEMO, generators and retailers could have been directed, so why did the government choose not to use the powers under the Emergency Management Act, via the police commissioner, to issue the directions that the Treasurer has been talking about?

The Hon. K.J. MAHER: My advice is that, under the Emergency Management Act, it is the police commissioner acting independently, it is not the government directing the police commissioner. It gets back to the question we talked about with the Essential Services Act, that, although we think it can be done, there is no express power in either of the other two acts that already exist in relation to AEMO. So, out of an abundance of caution, I think it is responsible to make sure it is in the act that we are talking about.

The Hon. R.I. LUCAS: From my experience with the Emergency Management Council process and the advice I received from the government advisers, the Emergency Management Council was meeting contemporaneously with the cabinet, in either adjoining rooms or wherever it

might happen to be, between 4 o'clock and 5.30, or maybe even after that, on the evening of the blackout.

The police commissioner clearly took advice from the Emergency Management Council. It was ultimately his decision as to what he would do, but the police commissioner does not go off, lock himself in a room and not listen to anyone. The police commissioner listens to the senior advisers, I assume the electricity people, the water people, the emergency services people, traffic controllers and others who would have been represented on the Emergency Management Council, saying, 'Hey, we have these problems, we need to do this, this and this.'

The police commissioner then uses the powers that he has, having listened to the advice, to do it. There is nothing that prevents the Minister for Energy and the senior electricity people saying, 'You have the powers to direct AEMO and the generators and the retailers.' My question is: why was that advice not given, or was it given and not accepted by the police commissioner?

The Hon. K.J. MAHER: I thank the honourable member for his question. In relation to what occurs between cabinet and the Emergency Management Council, obviously I am not going to go into details about that. Also, in terms of what the legal position is, that is not something that we are going to canvass in the chamber today. However, as a very, very broad generalisation, it is possible that there could be powers under the Emergency Management Act but, again, it does not directly mention AEMO. We think it is necessary to directly mention the power to direct AEMO and to have the powers contained in the bill that is before us.

The Hon. R.I. LUCAS: I think the minister's non-answer is illuminating in and of itself, so I will not delay. These are some of the questions, given the proposed legislation, that stakeholders and others have raised with the opposition and with me. As I said, the Treasurer has conceded in the other house that the powers exist under the existing legislation; he has just argued that there is going to be a less cumbersome process to go through and maybe a lower threshold, although I think that is not necessarily correct in relation to the police commissioner.

Putting that to the side, there is this unanswered question with the minister claiming, as he has just done, that he cannot reveal the discussions that went on at the time: that there were the powers available to the government to have directed in the way the minister says that he would have, even in the morning of that particular day. However, I will not delay the committee any longer on that particular issue.

Can I have confirmed that the crown advice to the government is that, under the existing two pieces of legislation that we have now been through in detail, when we speak about the 28 September event or some similar event, either the government, the Attorney-General, the cabinet and then ultimately the Governor, using the Essential Services Act, or the police commissioner, using the Emergency Management Act, does have the power to, in essence, take action prior to the blackout or the state of emergency.

In other words, could you confirm that, under the Essential Services Act 'where, in the opinion of the Governor, circumstances have arisen, or are likely to arise...or are likely to cause'—that is, there is the power under that particular provision prior to the actual statewide blackout—if the advice had been received, it could have been actioned?

Similarly, the Emergency Management Act, which we have just been through, states 'is about to occur'. Should the Commissioner of Police have got the advice, he did have the power under the act to have acted earlier than the actual statewide blackout, if he got the advice. I am not saying that he did. I am just saying that there is the power within both pieces of legislation, as they exist at the moment, for action to have been taken prior to the actual blackout.

The Hon. K.J. MAHER: I can confirm that, in a very broad sense, it is theoretically possible that, under the two existing acts, there could be action taken beforehand. Again, I highlight all the things that we have talked about under the Emergency Management Act and the higher threshold, talking about 'likely' rather than what we are proposing in this bill.

Under that act also, as the honourable member has helpfully stated, there is the much more complicated train of events: the AG taking something to cabinet, cabinet making the decision, cabinet advising the Governor, and the Governor issuing a proclamation. All those steps are much more

cumbersome than what we are talking about now. Also, there is the caveat that we have already canvassed tonight, which is it is arguable that it could relate to AEMO but, in an abundance of caution, we want to make absolutely sure that there is no wiggle room and no cause for doubt.

The Hon. R.I. LUCAS: The other issue I raised in the second reading was that, again, I did not agree with the Minister for Energy's claim that he would have, on the morning of the 28th, acted to constrain the interconnector, but put that to the side. What is on the public record is that an email from the minister's chief of staff at 11.06 on that morning stated, 'Even with the weather conditions, we don't expect this to be an issue.'

Vince Duffy, Tom Koutsantonis, Rebecca Knights, Paul Heithersay and Don Russell were all copied into that email. Can I have confirmed that the advice of the experts within the department prior to 11.06 on the morning of the 28th was accurately reflected by chief of staff Jarrad Pilkington; that is, 'Even with the weather conditions, we don't expect this to be an issue'?

The Hon. K.J. MAHER: Can you just repeat the line—

The Hon. R.I. LUCAS: The line or the question?

The Hon. K.J. MAHER: What you are saying the email says exactly.

The Hon. R.I. LUCAS: Sure. The email says exactly, at 11.06 from the chief of staff, 'Even with the weather conditions, we don't expect this to be an issue.' There is an email trail that had gone on. This is just one element. Discussions were going on with AEMO about the electricity system. Copied into that particular email were Vince Duffy, Tom Koutsantonis, Rebecca Knights, Paul Heithersay and Don Russell.

All I am asking is: given that Mr Duffy is here, is the advice from Jarrad Pilkington, as quoted in that email, an accurate reflection of the advice that the government advisers had in the period leading up to 11.06 on the 28th? It may well be that the government's advisers' position is that Jarrad Pilkington got it wrong, and his advice to the minister did not accurately reflect the advice. My question is: did it accurately reflect the advice that Mr Duffy and others were giving the government in the period leading up to 11.06 on the morning of the 28th?

The Hon. K.J. MAHER: I think this might be a case, if I am to be completely generous, of him misunderstanding the complete intent of that line of the email. I am being generous and, as we are here at a late hour, I will continue to try to be generous. As I am informed, there is a question mark at the end of that sentence. 'We don't expect the weather conditions to be an issue, question mark.' So, it is not a statement in the positive that we do not expect the weather conditions to be an issue, but it is actually the complete opposite of how it has been represented because it is a question mark, which rather negates the idea that it is a positive statement that we do not expect it to be.

It is, in fact, asking the question which makes it, rather, the opposite of what is being portrayed in this line of reasoning. I am informed that later down the email trail it makes it abundantly clear that that is the case when the responses are that they will check with AEMO about that. So, to suggest that the chief of staff was making the positive statement that, 'We don't expect the weather conditions to be an issue,' is just not anywhere near a proper representation. It is, in fact, completely the opposite representation.

The Hon. R.I. LUCAS: I cannot pursue that. I am just going on the transcript of *Hansard* from the House of Assembly, which does not have a question mark at the end of the quoted email. The shadow minister, the member for Stuart—

The Hon. K.J. Maher: You have been inadvertently misled by your shadow minister.

The Hon. R.I. LUCAS: No, you might have been inadvertently misled by the advice that you have just been given. You have been given advice, I have read the transcript of *Hansard*—

The Hon. K.J. Maher: I would trust these blokes more than I would trust the shadow minister.

The Hon. R.I. LUCAS: Well, let us leave that debate for another day, but, as I said, given that neither of us has the actual email in front of us, I will not pursue that particular issue. If that is the advice that is now being given to the minister on behalf of the government, is it, in essence, that

at that time government advisers were expressing concern to the minister and to the government in relation to whatever it is that AEMO was proposing to do?

The Hon. K.J. MAHER: I am advised that, yes, the government advisers contacted AEMO and ElectraNet to ask them if there was more that could or should be done.

The Hon. R.I. LUCAS: I understand, clearly, that people were asking questions whether more should be done or not, but my question specifically is—and Mr Duffy and his officers were kind enough to what their responsibilities were. Mr Hughes is the jurisdictional designed officer (JDO) and the responsible officer for the SAN region under the NEM memorandum of understanding on the use of emergency powers, and Mr Faunt is the jurisdictional systems security coordinator pursuant to section 110 of the National Electricity Act 1996, and there is other detail about what their formal responsibilities are.

So, I am aware that they were having discussions with AEMO and ElectraNet and various others—they would have been negligent if they were not—my question is: is it the government's advice that, as of the morning of the 29th, that is, before 12 o'clock on that morning, the government representatives, through Mr Duffy or Mr Faunt, or indeed anybody else, were urging AEMO to actually take any different action to action that ultimately AEMO took?

The Hon. K.J. MAHER: I am advised that the answer to that is yes.

The Hon. R.I. LUCAS: What were the government designated officers asking AEMO to do, which they did not do, as of the morning of the 28th?

The Hon. K.J. MAHER: I am advised that the question being asked by our government advisers was: did AEMO need to constrain the interconnector down to be more conservative in the operation of the market?

The Hon. R.I. LUCAS: Again, a sensible question to be asked, and, clearly, I assume the advice from AEMO was no. Once the government advisers received that, did they provide at any stage advice to the minister to say that they believed that the interconnector should be constrained prior to the event occurring at four o'clock (approximately) that afternoon?

The Hon. K.J. MAHER: My advice is that the state government's advisers asked for AEMO's advice, and AEMO's advice was that it was not a credible contingency.

The Hon. R.I. LUCAS: I understand that. That is not my question. My question is: once the officers asked for and got that advice from AEMO, who said, 'Don't you worry about that, it's not a credible contingency' (to use their language), did the government officers then advise the Minister for Mineral Resources and Energy that they thought the interconnector should be constrained, or not?

The Hon. K.J. MAHER: I am advised that they accepted AEMO's advice because there was not an alternative way to deal with the situation at that time.

The Hon. R.I. LUCAS: I make no criticism of the government officers; I would expect that that would be the case. In essence, AEMO has been asked a question. They have all the expertise and advice available to them, and they made a judgement and that judgement was accepted by the government advisers.

The issue then remains that, ultimately, under this bill, it is going to be the government and the minister who are going to have to set themselves up as alternative experts or judges in relation to whether the interconnector should be constrained or not. It is not going to be an issue of accepting or not accepting the advice of AEMO; it is going to be an independent judgement of the Minister for Mineral Resources and Energy under these powers that will exist. So, what is it that will be different under these powers in terms of the government's advice?

I just highlight that I asked the government advisers about the staffing or resource component in government. I am told that the Office of the Technical Regulator has 47.4 full-time equivalent staff, but that covers electricity, gas, water and plumbing. I assume it is only a component of the 47.4 staff who actually relate to electricity and have any knowledge. A number of those, I suspect, would be

people who go out and inspect plumbing, gas and water installations and whatever else it might be. So, the number of electricity experts and market experts in there might be small.

The remainder of the energy and technical regulation division, which is Mr Duffy's area, has 38.8 staff. I am not sure how many of those are experts on electricity or whether there are people who are divided into gas and various other areas as well. Putting that aside, the issue is going to be where the Minister for Mineral Resources and Energy is going to get his independent advice to second guess or better guess AEMO and the national regulatory authorities.

The Hon. K.J. MAHER: My advice is that the minister can seek advice from as wide a range of parties as he chooses. You would expect, of course, that these would include his departmental officials, but it could extend to industry participants or any other person whom he seeks advice from.

While I am on my feet, I might be able to clarify for the benefit of the chamber that there was a debate about a question mark and how that influenced a sentence earlier. I can now say I have seen the actual line from the email. I know that the honourable member said before that neither of us had the benefit of looking at that email. I have now been able to see the email and there is, in fact, that question mark which makes it a very different proposition than how it was relayed in the House of Assembly that the honourable member had relied upon.

The Hon. R.I. LUCAS: I thank him for that. The minister might like to get his colleagues to seek to insert a question mark into the *Hansard* transcript, however that might be done. In relation to the Office of the Technical Regulator in the Energy and Technical Regulation Division, is the government's advice that additional resources, expertise and capacity will need to be provided to those areas to enable sensible use of the new powers that will be available to the Minister for Energy?

The Hon. K.J. MAHER: I am advised that that area of government, if it is needed, will seek additional resources.

The Hon. R.I. LUCAS: I thank the minister for that. I note that the minister, when asked if he would consult industry participants and others in relation to the exercise of advice, said, as the *Hansard* transcript records, that no, he would not be listening to those people. The minister here says, of course, he would be listening to—

The Hon. K.J. Maher: That's not what I said. I said that is the range of—

The Hon. R.I. LUCAS: Who he could go to, yes.

The Hon. K.J. Maher: I didn't say he would at all. That is not true whatsoever.

The Hon. R.I. LUCAS: Well, he was very dismissive of actually—

The Hon. K.J. Maher: Half-truth, Rob. Fake news.

The Hon. R.I. LUCAS: No, not fake news. I am just recounting what the minister actually said in the House of Assembly debate. In relation to the operations on the day of the 28th, in the discussion that I had with government advisers this morning, I asked a question because the minister had said that if he had had these powers on the 28th he would have constrained the interconnector on the morning of the 28th.

I asked the question as to what level the interconnector was operating, and with the greatest of respect to Mr Duffy, he said he did not really know but he thought it was operating at about 400 megawatts at that particular time. He undertook to check. When the answers came back this afternoon, he has given me that at 4.18 in the afternoon, just prior to the trip of the Davenport-Belalie and Davenport-Mount Lofty transmission lines, it was 525 megawatts. That was not really my question, so I am wondering whether either Mr Duffy, the government adviser, through you, has the answer to the question. That is, at what capacity was the interconnector running at during the morning of the 28th, and if he does not have that answer now whether, through you, he would be prepared to take that on notice and provide the answer in writing?

The Hon. K.J. MAHER: I can advise that I do not have that answer now but I am happy to have that taken on notice and bring back a reply. Just so that I am clear on what I am bringing back, it is during the morning of the 28th? An average during the course of the morning or a particular time in the morning?

The Hon. R.I. Lucas: The average through the morning of the 28th.

The Hon. K.J. MAHER: I will bring that back.

The Hon. R.I. LUCAS: As I said, I am not seeking to delay the proceedings of the committee; I am happy to receive that by way of a letter from the minister or the minister's officer or somebody. As to the issue in relation to compensation I raised in the second reading debate, I just wanted to place on the record again the information the crown law advisers and the government advisers gave me. Can I just have confirmed that the AEMO rules—I should not say AEMO rules; the minister will jump up and down that I have misdescribed it—the AEMO briefing paper, 'Operation of Intervention Price Provisions' of the National Electricity Market, which was sent to me by the government advisers, are they the current provisions that relate to the payment of compensation potentially in the circumstances we are talking about, in particular clauses 7 and 8?

The Hon. K.J. MAHER: I am advised that these were the ones that were off the website for this, so I presume that is the case, yes.

The Hon. R.I. LUCAS: I am relying on the government adviser's advice. It says the effective date was 10 March 2011, but it was in response to the question I asked, so I place on record that I have relied on the information provided by the government advisers. I take it from the response that that is their advice that that is the compensation.

Can I confirm that I have accurately interpreted the information from government advisers and placed on record during the second reading, and that is that, potentially, in circumstances that could eventuate as a result of the use of the powers in this bill under the compensation arrangements in clause 7, there are complicated provisions as defined by the national electricity rules where generators and/or retailers, if they felt that they had lost money, could seek compensation through these particular processes?

The Hon. K.J. MAHER: I am advised that that is the case.

The Hon. R.I. LUCAS: Can I also confirm that my interpretation of the provision 8, 'Compensation Recovery', is correct—that is, should they meet those tests for compensation in emergency circumstances and AEMO calculates that there is compensation payable. Clause 8 states, 'Any compensation that AEMO pays due to intervention in the market is recovered from Market Customers in the regions benefitting from the intervention.' Is my interpretation correct that, in envisaged circumstances where the South Australian minister has given directions on behalf of South Australians, it would be South Australian consumers who would have to meet the cost of that compensation?

The Hon. K.J. MAHER: My advice is that, yes, it can be recovered from retailers. How retailers recover that depends on their contractual terms with customers.

The Hon. R.I. LUCAS: It is quite clear where the retailers would get it; it would be from the customers. Putting that to the side, specifically the region here would clearly be the South Australian region. We could not spread that—or AEMO would not spread that—to Victoria or New South Wales. It would have to be South Australia as the benefiting region.

The Hon. K.J. MAHER: Can you repeat that?

The Hon. R.I. LUCAS: I will read the provision again. I think it is quite clear. Certainly in the discussion I have had with others, they agree with the interpretation, that is, 'Compensation Recovery':

> Any compensation that AEMO pays due to intervention in the market is recovered—

and then there is a sub-note 18—see rule 3.15.8, which refers to national electricity rules—

> from Market Customers in the regions benefitting from the intervention (ie direction or reserve contracting). Compensation payments and recovery amounts are shown on preliminary and final settlement statements for the billing week in which the compensation determination is published to the market.

In the brief discussion I have had with one stakeholder, they have agreed with the interpretation I have put on the public record, which is that it is clearly South Australia. I am just seeking confirmation that that is the government's understanding, if we got to those circumstances.

The Hon. K.J. MAHER: Very generally, that would likely be the case, but doing these things without a specific circumstance in mind, I am advised, is very difficult. As a general rule, yes, that is what the rule contemplates.

The Hon. R.I. LUCAS: Let me leave the invitation open without delaying the committee. It clearly would apply to South Australian customers, but maybe it might be smeared to another state. When other information comes back about the interconnector, if the government advisers can think of a set of circumstances where it would not apply, I would be interested to see that.

The other question I raised in the second reading was in relation to section 7 of the Essential Services Act that the minister has agreed, on advice, is going to continue. Under the Essential Services Act, using that particular process—which is still possible for this government or a future government—the minister, and in this case it is the Attorney-General, has the power to fix maximum prices for, one would assume, just the period of the duration of the declared emergency, so in essence, fix maximum prices, may fix differential maximum prices, etc. There are various provisions that relate to that; it is under the clause on profiteering.

Given that this power has existed but, I assume, has never been used in relation to electricity—I assume it has possibly been used in relation to other essential services, I do not know, but putting that to one side—now that the government is potentially intervening to a greater degree in the National Electricity Market, people are saying, 'Well, there is this power.' You have confirmed now, on behalf of the government, that you intend to keep the Essential Services Act as it potentially applies to the electricity industry, and concern is being raised with me about what the minister may or may not do should this particular clause be activated.

Can the minister's legal advice give any clarification on whether there is any restriction on the capacity of the government to use this power? Clearly, it is theoretically possible, but there is a degree of discomfort from at least one or two people who have raised the issue with me.

The Hon. K.J. MAHER: I am advised that what we are doing in this bill will change absolutely nothing about what can potentially happen under the Essential Services Act. It changes nothing about what can happen under that act. Again, on its face the section being referred to does not talk about AEMO. It changes nothing about what that act contemplates. It remains the same. It is not changed at all by the bill before us now.

The Hon. R.I. LUCAS: I thank the minister for that. I know that we confirmed before that the Essential Services Act is not being changed by this, so that is taken as fact and I accept that, but that is the question now being raised. They have said to me, if that is the case, the government will have the power through the Attorney-General, if it activates these particular provisions, to fix maximum prices in the electricity market.

That was theoretically possible before—that is, the government's answer, 'Hey, we've had that power before,'—but people are now saying, 'Yes, that was before, but before you didn't actually have the government saying it was going to intervene in the market, it was going to wind back privatisation, it was going to do this and that. There is a changed policy approach from the government and they are saying that this power potentially allows them to fix maximum prices for electricity. Is there a restriction on it?'

The Hon. K.J. MAHER: The government has talked about what it will do and may be able to do under the bill before us. I am not aware of any statements, and I would be keen to hear if the member has any statements, about whether the government has said that it may seek to act under the Essential Services Act, the profiteering power that has always been there. I do not think there have been any statements that the government is contemplating doing that. Certainly, what we have been talking about is intervention under the bill that is before us.

The Hon. R.I. LUCAS: To use the minister's words, that is fake news. I never said that. That is nothing like what I said.

The Hon. K.J. Maher interjecting:

The Hon. R.I. LUCAS: No, I never said the government said that. You are misquoting what I said, to use your phrase. I do not take as much offence as you seem to. That is not my question. My question was not that the government had said this. The government has now said that it is going

to intervene to a greater degree in the National Electricity Market through the emergency management provisions, which we have all conceded, and the government has tonight conceded that the Essential Services Act is not going to be changed, so the powers remain there.

Questions have been raised with me, not on the basis that the government has said publicly it is going to use clause 7 of the profiteering provisions of the act at all. People have raised the question with me and said, 'Okay, now the government has this new approach to intervening in the National Electricity Market with the emergency management powers, the energy plan and those sorts of things, what capacity could a government with that mindset have in terms of using clause 7 of the Essential Services Act?'

The Hon. K.J. MAHER: I think I understand the honourable member's question and I might be able to help him out and provide some advice. The honourable member might like to get all these people who have been raising this particular concern with him, sit down at a table in a room over a nice cup of tea and let them know that the government has not said anything about using the provisions of the Emergency Services Act, and it has always been there; there is no change. The honourable member might be able to convince people to have a nice cup of tea and a good lie down and not worry so much about it.

The Hon. R.I. LUCAS: I understand the point the minister makes, but the issue is that, if we had gone back three months ago, the same people could have been told that the government has never intervened in the National Electricity Market, it has never proposed to own a power station, it has never proposed to do a whole range of things, where it changed its policy position significantly. The minister may not have heard the quotes that I put on the record of the minister saying, in September last year, the day after the blackout, that the National Electricity Market was a creation of him and the government, it had worked wonderfully well, etc.

The government's position has changed significantly since September, so let me assure him that, if I were to sit down and have a cup of tea with these people and say, 'Don't you worry about it; the government has not said anything about doing these sorts of things,' I do not know that they would be comforted by that particular position.

The Hon. D.W. RIDGWAY: I have a few questions. For the benefit of the minister's advisers, there will be a couple of questions around the rules, some questions around the diesel generators and then a little on the batteries in the proposed plan. As I said in my second reading contribution, I was interested to know about the process to change the rules and the time frame. Does the legislation that we are passing today have any impact on the rules? Given we are a lead legislator and we are legislating to give these special powers to the minister, are there any flow-on effects that other states need to legislate to reflect what we are doing here tonight?

The Hon. K.J. MAHER: I thank the member for his question and his second reading contribution where we heard about his memories of taking the bus as a child, which was very good and illuminating. The advice is that this bill today does not require any changes to any of the legislation that governs the national energy market.

The Hon. D.W. RIDGWAY: The first question I asked is: how do you change the rules? If the rules ever need changing, aside from this legislation—we have heard the minister say that we are the lead legislator, that this is our system and he is very proud of it—how does a jurisdiction go about it and roughly how long does it take? What is the process?

The Hon. K.J. MAHER: Are you asking about rules or legislative change?

The Hon. D.W. RIDGWAY: Rules.

The Hon. K.J. MAHER: My advice is that the rule changes are delegated to the Australian Energy Market Commission, that a proposal would be put in for a rule change and the Australian Energy Market Commission would consider it.

The Hon. D.W. RIDGWAY: The minister could perhaps ask his adviser, in his experience, how long does that take? I guess some rules are more complicated than others but, as a general estimate, if you are going to change the rules is it one week, one month, six months or one year? What is it?

The Hon. K.J. MAHER: I am advised that it is in the order of a year or more.

The Hon. D.W. RIDGWAY: You and your colleagues bragged in question time today about the expert advice you had taken in the development of the plan. I am interested to know the cost per megawatt of the electricity provided to Tasmania when they used diesel generation to support their network when Basslink was down? Clearly, that is where we are going as an emergency situation if we do not have gas or battery in place before this summer.

The Hon. K.J. MAHER: We do not have exact figures now. As with one of the questions from the Hon. Robert Lucas, I am happy to take that question on notice and bring back a reply.

The Hon. D.W. RIDGWAY: I do hope that that is in some reasonable time frame. I know it is getting late. I am interested in the batteries. In the 2016 AEMO National Electricity Forecasting Report, there is some discussion about batteries and the technology. I was reading earlier today in that report that they thought it would probably be about mid-2020s before we have technology in batteries that would be suitable to use in the National Electricity Market. We are in 2017, not the mid-2020s, and that was only last year's report. Is the expert advice that the technology is sufficiently advanced that the 100 megawatts of battery storage will provide some security for us?

The Hon. K.J. MAHER: I am advised that yes, the technology is there to do that.

The Hon. D.W. RIDGWAY: What has changed since that was written in 2016? We are only in April 2017. Has the technology leapt so far forward in what could only be four or five months?

The Hon. K.J. MAHER: I am advised that, as of today, grid-scale storage is being used around the world. PJM—Pennsylvania, Jersey and Maryland—have such grid-scale storage, and it is being deployed in the UK. The technology exists and is being used in jurisdictions around the world.

The Hon. D.W. RIDGWAY: Am I right to say that the Premier said that the 100 megawatts the government is proposing would be the largest in the world?

The Hon. K.J. MAHER: I am advised that it will certainly be the largest in Australia and, depending on the exact configuration in the end, possibly the largest in the world.

The Hon. D.W. RIDGWAY: The report I was referring to talked about efficiency or losses. I am not a technical person but, basically, you can only ever actually recover 90 per cent of the energy that has been stored in a battery. If it stored 100 megawatts, you could only get 90 megawatts out of it. Are the specifications that the government has gone out to market with for 110 megawatts so that we actually get 100 into the system, or is it for 100 and we will only get 90 into the system?

The Hon. K.J. MAHER: My advice is that it is a whole lot more complicated than that, but if we could boil it down to very simple terms, that would be the amount that can go out of the battery, if we can put it in the terms that I think the honourable member is looking for.

The Hon. D.W. RIDGWAY: So, there will be 100 megawatts of power available out of whatever the storage system is. Whether it is 90 per cent or 80 per cent, there will be 100 megawatts. I can accept that. Let us say it is 100 megawatts. If we have a deficiency of 100 megawatts it will take in the system, it will take an hour to discharge that, I assume.

The Hon. K.J. MAHER: There are various ways that a battery might operate, but yes, that is how we are specifying in what we are going out to tender with.

The Hon. D.W. RIDGWAY: So, if we had significant deficiency—let us say 500 megawatts—it will last for 12 minutes before it will be gone?

The Hon. K.J. MAHER: Again, that is, I am advised, an exceptionally complicated question. It is a 100-megawatt hour of battery. I can seek further advice if it is possible on whether you can directly translate that into a shorter amount of time with greater output, but I am advised that it is an extremely complicated question, so I am happy to take it on notice.

The Hon. D.W. RIDGWAY: This will probably be too simplistic for the experts, but if you have a mobile phone battery, eventually it does not hold the charge. We have heard that these things will be worn out or not work to their normal efficiency over a period. In what time period do you expect

that this battery would need to be replaced, refurbished or whatever you do to big batteries to keep that sort of level of performance?

The Hon. K.J. MAHER: What is the lifespan of the battery before it deteriorates?

The Hon. D.W. RIDGWAY: Yes. Then you have to go and buy another one.

The Hon. K.J. MAHER: My advice is that it is a good question and quite a reasonable question. That is part of the process of evaluation of the tenders that will come in. There is not a definitive answer that all batteries will last 10 years or 30 years. This will be part of what is assessed as part of the tender.

The Hon. D.W. RIDGWAY: I assume their life is dependent on how often they are charged and discharged, so if you keep them full of juice they will last longer than if you are constantly charging and discharging them?

The Hon. K.J. MAHER: I am advised that no, that is not necessarily the case. It depends on the technology that is used.

The Hon. D.W. RIDGWAY: How are batteries looked at in the context of the rules? Where do they fit in? I searched chapter 5 of the National Electricity Rules, Network Connection, Planning and Expansion. The word 'battery' does not appear anywhere. 'Storage device' does not appear. Storage talks about pumped water. Where do batteries fit in to our national rules?

The Hon. K.J. MAHER: My advice is that in terms of national rules there will be both a generator and a customer.

The Hon. D.W. RIDGWAY: So, there will be no actual changes to the rules required to have a battery of the magnitude we are talking about in the national market?

The Hon. K.J. MAHER: My advice is that what we are contemplating for a battery in South Australia will not need changes to the rules yet, but, of course, rules will change over time to reflect how the electricity market both generates and distributes electricity.

The Hon. D.W. RIDGWAY: How do you mean rules will change over time? I searched all 1580-odd pages of the national rules and, again, the word 'battery' does not appear. I am intrigued if over time we have to change them, how does that impact on—

The Hon. K.J. MAHER: I am advised that there are no rule changes required for a battery to be part of the South Australian energy system, but some of the additional services that batteries can provide are likely to feature in rule changes in the not too distant future.

The Hon. D.W. RIDGWAY: Is it accurate that, for some of the companies that are looking to supply this battery, one of the issues that they have been raising with the government is the negotiation around the rules and how batteries fit into the National Electricity Market? That is advice that I have been given in the last 24 hours. They do not just plug in like a battery that you stick into your torch; there is a complicated arrangement. Your advice in answer to most of my questions has been that the answer is too complicated, so can you guarantee that this battery can be plugged into the national market straightaway, that it will not require any rule changes whatsoever?

The Hon. K.J. MAHER: My advice is that there are no rules that will prevent a battery plugging into the system.

Clause passed.

Remaining clauses (2 to 11) and title passed.

Bill reported without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (22:42): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ROAD TRAFFIC (ROADWORKS) AMENDMENT BILL

Final Stages

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

CHILDREN AND YOUNG PEOPLE (SAFETY) BILL

Introduction and First Reading

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

At 22:43 the council adjourned until Wednesday 12 April 2017 at 14:15.

Answers to Questions

ARTS FUNDING

In reply to **the Hon. T.A. FRANKS** (18 May 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for the Arts has received this advice:

1. Arts South Australia took action as soon as the Australia Council announced its funding outcomes and met on 13 May 2016 with the small-to-medium organisations that have been affected by the funding decisions, as well as with other key funded organisations large and small. A clear message was given that the government, through Arts South Australia, will put in place initiatives to assist them to develop viable pathways for the future.

To implement its support, Arts South Australia has provided additional funding of $250,000 in 2017, from within its existing funding allocation, to support the affected organisations. Other funding has been used to increase the pool of available funds for the small-to-medium sector organisations in 2017. Eligibility criteria has been modified to ensure organisations that lost their support and investment partner by not being allocated Australia Council funding, were still eligible and competitive when applying for Arts South Australia funding.

Arts South Australia staff are working with organisations to explore alternative operating models and partnership arrangements across the sector. Two of the affected organisations – the Australian Experimental Arts Foundation and the Contemporary Arts Centre of South Australia – are in the process of amalgamating. Others have mounted very effective crowd funding campaigns, and are investigating other more sustainable partnerships and support for their future operations.

2. The current economic and fiscal conditions have required difficult decisions to be made across most sectors of the South Australian economy, including the government sector. All departments and agencies of government, including the arts, have been required to contribute to cross-government efficiency targets.

After the application of $3.7 million provided to Arts South Australia through the 2016-17 state budget to maintain arts activities, the efficiency target in 2016-17 for the arts sector has been reduced to $0.599 million. This target has been fully achieved through efficiency contributions from major arts organisations; no efficiency contributions were required from the small-to-medium sector.

Efficiency targets are projected to increase to $5.6 million per annum from 2019-20 after allowing for the $4 million per annum from 2017-18 to maintain arts activities provided through 2016-17 state budget.

BUILDING FAMILY OPPORTUNITIES

In reply to **the Hon. A.L. McLACHLAN** (22 June 2016).

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy): I have been advised:

Since the Building Family Opportunities program was extended in 2014, the program has achieved around 400 employment outcomes to February 2017.

SA WATER INFRASTRUCTURE

In reply to **the Hon. J.M.A. LENSINK** (29 September 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Water and the River Murray has received the following advice:

Adelaide Metropolitan Area

- Reliance Road, Hallett Cove
- Grey Street, Hallett Cove
- Crossing Road, Aberfoyle Park
- Glendale Avenue, Flagstaff Hill
- Ridgeway Drive, Flagstaff Hill

Adelaide Hills

- Ambleside Road, Hahndorf
- Strathalbyn Road, Aldgate
- Gould Lane, Stirling
- Milan Terrace, Aldgate

- Mt Barker Road, Bridgewater
- Albert Street, Gumeracha
- Wewak Road, Woodside
- Orvieto Street, Bridgewater
- Snows Road, Stirling

GAWLER RIVER FLOODING

In reply to **the Hon. J.M.A. LENSINK** (18 October 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): I can advise that I have not received any direct advice about flooding in the Virginia region from the Stormwater Management Authority outside that contained in the Stormwater Management Authority's 'Priorities for Stormwater Management Planning in South Australia' document. The town of Virginia is one of the high priority catchments identified in this document and the authority is working closely with the City of Playford on this area.

I have received correspondence from, and met with, the Gawler River Floodplain Management Authority. They have been working with the local community and technical experts on an infrastructure mitigation plan for the lower Gawler River.

There is not yet a stormwater management plan in place for Virginia as this is currently being progressed by the Stormwater Management Authority and the City of Playford.

I have not received any advice that the coercive powers in schedule 1A of the Local Government Act 1999 will be required to facilitate the development of a stormwater management plan for Virginia.

NATIONAL PARKS

In reply to **the Hon. J.S.L. DAWKINS** (17 November 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): I have been advised that a new entrance sign at the Para Wirra Conservation Park has been installed.

In addition, work on new facilities throughout the park will commence in mid-2017. Construction of these facilities will immediately be followed by new signage at locations such as the trailheads.

CAREER AND WORKFORCE DEVELOPMENT CENTRE

In reply to **the Hon. J.M.A. LENSINK** (15 February 2017).

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy): I have been advised:

1. Staff from the registered training organisation delivered the ICT training and are skilled to deliver this training.

2. Four staff from Northern Futures attend when delivering career service appointments. Additionally, one DSD staff member works at the centre every Thursday. The centre is open Monday to Thursday.

3. The centre has 12 computers.

4. The computers are regularly updated in relation to security.

5. The centre opened just over two years ago in 2015 with computers that were surplus to government requirements and are still fit for purpose.

6. I am advised that Northern Futures are contracted to deliver career services. The workers at the centre are employees of Northern Futures.

CAREER AND WORKFORCE DEVELOPMENT CENTRE

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (15 February 2017).

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy): I have been advised:

As at 23 March 2017, over 880 people have participated in the Automotive Workers in Transition Program and of these, 347 people have presented to the Warradale Centre.

SOUTH PARA RESERVOIR PUBLIC ACCESS

In reply to **the Hon. J.S.L. DAWKINS** (16 February 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): I have been advised:

SA Water will be planning to commemorate the 60th anniversary of the reservoir commissioning in 2018. I am advised activities will include displays of photographs, historical artefacts and records of the important and fascinating history of South Para. SA Water will work closely with the Barossa Council to ensure the activities are well promoted to the local community.

I thank the honourable member for highlighting the important role of migrants in building South Para and SA Water advises there will be recognition of workers—in particular, the many people who had left Europe after the Second World War and supported the construction efforts.

The South Para Reservoir was closed to public access in 2010 while works to upgrade the spillway were undertaken.

There are no plans to reopen South Para Reservoir to public access at this point in time. However, I am advised that SA Water can facilitate tours on request for local groups interested in seeing the reservoir.

SA WATER

In reply to **the Hon. J.M.A. LENSINK** (28 February 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): I have been advised:

The costs associated with producing materials sent to members of this place and the other place was $474.03, plus postage.

DEPARTMENTAL STAFF

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (2 March 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): I have been advised:

The new executive structure within DEWNR was achieved without increasing overall spend on executive salaries. The increased number of executives reporting directly to the chief executive was achieved through flattening the existing structure.

Five out of the six group executive directors were pre-existing executives within the department, whose roles and functions were realigned to support the new structure.

The newly created position of Group Executive Director, Economic and Sustainable Development, was filled by Mr Matt Johnson, an existing member of the South Australian Executive Service, who moved at level from the Department of State Development.