LEGISLATIVE COUNCIL

Monday 31 May 2004

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

QUESTION TIME

TRADE AND ECONOMIC DEVELOPMENT DEPARTMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about the Department of Trade and Economic Development.

Leave granted.

The Hon. R.I. LUCAS: In a number of policy statements issued by the then Labor opposition prior to the last state election, the Labor Party made a number of specific commitments in relation to industry policy generally. I quote in particular the commitment by the Rann Labor government to establish a dedicated centre for innovation in manufacturing, industry and business. The policy document states:

> . . . the centre for innovation will combine the resources of the Centre for Manufacturing, the Business Centre and other parts of the Department of Industry and Trade and parts of other agencies, to provide practical and strategic assistance to existing industries.

It goes on to state that the centre for innovation will work with existing industries including, I note particularly:

> . . . small and medium firms, to retain and create jobs, to gain access to new skills and new technologies and to develop new products and processes for new and existing markets.

There are a number of commitments in the policy papers which go on to highlight the government's commitment in relation to the new centre for innovation—in particular, that it will provide practical advice to small and medium sized businesses.

A number of small business people have expressed great concern to the Liberal Party regarding recent advice provided by the Department of Trade and Economic Development under the obvious instruction of the new minister, the Hon. P. Holloway. The advice to small business went out on 24 May from Mr Tony de Vries, Department of Trade and Economic Development. That advice is as follows:

> As of Friday 28 May 2004 the CIBM [that is, the Centre for Innovation, Business and Manufacturing] office at 145 South Terrace will be closed. The Small Business Services Unit within the former Centre for Innovation, Business and Manufacturing will no longer provide 'across-the-counter' services.
>
> The Information Officers and Business Advisers telephone service will continue to support the Business Enterprise Centre (BEC) network from our new location. . . If you would like to make an appointment with a Business Adviser to talk about your established business or if you are wishing to start a new business, please refer to the attached brochure for your nearest BEC.
>
> Apologies for any inconvenience that this transfer may cause.

Small business representatives who have contacted the opposition have expressed alarm and outrage at this government's—in their terms—reduction of the services that were previously provided to small and medium sized businesses through the department and, in particular, through what was formerly known as the Business Centre and which is now part of the Centre for Innovation, Business and Manufacturing. My questions are:

1. Did the leader, together with the now Premier and Treasurer, not tell the truth to the people of South Australia prior to the election when they made a fervent commitment to small business people that they would continue to receive practical advice and assistance through the new Department of Trade and Economic Development, as it is now known?

2. Why has the new minister, in such a short time frame, proceeded to the closure of the Small Business Services Unit within what was formerly known as the Centre for Innovation, Business and Manufacturing, contrary to the commitments that he and the Premier and Treasurer gave to small business people prior to the election?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): The Leader of the Opposition would be well aware that the government is in the process of restructuring the old department of industry and trade as it existed under the Leader of the Opposition and which later became the department of business, manufacturing and trade. It is certainly the case that, in its election policy, the government promised to establish a centre for innovation. It is one of those issues that I am currently having some work done on at present. I have had discussions with the Manufacturing Consultative Council and some of the component groups of that, namely, the relevant trade unions and employer organisations such as the Engineering Employers Association, about those matters.

In relation to CIBM on South Terrace, it has been well known, I would have thought, that it was due to close at the end of May this year when the lease on that building expires. It makes sense to bring all the services of the new Department of Trade and Economic Development into the one site on North Terrace, and that happened last Friday.

In relation to small business services, the leader would be well aware, because he asked questions last week, that the government will be providing services through a revamped system of business enterprise centres. I informed him last week that the state government intended to support the Adelaide City Council in the establishment of a central city BEC, which will provide some of the services in the CBD that will not be available with the closure of the Small Business Services Unit.

I have also indicated on previous occasions how this government will be reorganising its services for small business. Those changes will include a stronger role for the Small Business Development Council in advising on small business policy development. That council has been established for some time now. We will be creating an office of small business to support the council and act as a point of contact for small business. The executive director of that office has been appointed and most staff will be in place within days. That is all part of the restructure within the new department.

Certain small business functions will be transferred from the former CIBM on South Terrace to a group within the Business Development Services (BDS) division so some of those services will be provided. That unit will provide support to the existing BEC network and any new small business development model. As I indicated last week, we have been in advanced negotiations with local government in relation to that. As I also indicated last week, the development of the new model of business centres will require some lead time, given the number of BECs involved and the need to develop agreed performance criteria. Transition arrangements are in place. Services will be retained through the Department of Trade and Economic Development at North

Terrace and, as I said, we are negotiating with the Adelaide City Council in relation to its desire to establish a central city BEC.

In addition to the three positions within Business Development Services supporting the BECs, the department will maintain delivery of the following services to small business pending establishment of the new system, that is, the business licensing information service and the small business advisory service to support the BECs with the processing of more complex inquiries. So, those services will remain, at least until the new network has been developed. In fact, all the things I have indicated are in accord with the plans set out by the government prior to the election. The only part we do not have in place yet is the centre for innovation which, as I said, is one of the priorities I am working on.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the minister in his answer said that the services will be transferred to North Terrace, is he indicating that the advice to small business from Mr Tony de Vries that the centre will no longer provide across-the-counter services and that people should contact the business enterprise centre network rather than the North Terrace office is wrong?

The Hon. P. HOLLOWAY: No, I am not suggesting it is wrong. In fact, I just said that the BECs will be the new front line and we are looking at having one in the CBD. That is one of the priorities. But, the support services that will be provided will be located at North Terrace. So, we will support the BECs in that role.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the current financial assistance to BECs is so small and that there has been a commitment from this minister to continue funding for only 12 months whilst he subjects their funding to review, does the minister now concede that there will have to be increased funding to BECs if across-the-counter services to small and medium size enterprises are to continue as they did under the former government?

The Hon. P. HOLLOWAY: As I indicated, the government is looking at a new model of delivery through the BECs. There has been a submission from the BECs, and one of the objectives (as I indicated in answer to a question last week) is that the new BEC network—unlike under the previous government—will cover all local government areas in the metropolitan area, as well as the city. Of course, by itself that will mean greater resources coming into the network. But, as we negotiate the new model, we will certainly look at the question of resources. I repeat the fact that there are resources. The resources in the old CIBM will remain within DTED to provide support in the short term.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I have given the answer and the Leader of the Opposition does not care to listen. I can imagine why the deputy leader is embarrassed. Why would you not be embarrassed, as one of the failed treasurers of South Australia? For 22 years he has been in this place, and that is 22 years of failure. He is known at Treasury as 'Red Ink Rob'. Look at his budget deficits: he sold $8 billion worth of assets and reduced debt by $6 billion. He challenged me when I was on the other side of parliament and said that we could not produce a surplus. This government has produced accrual surpluses, which he said we would never do. It is no wonder that he is embarrassed and trying to divert me. I was waiting today for a question about the budget, and what do we get?

I can tell the Leader of the Opposition of the response from Business SA, and perhaps I should read it to this council. The response from business in South Australia is positive, unlike the response from these knockers opposite. This government promised to restructure the way business support services were given in this state. We did not do what the leader did and throw away money. He gave $25 million to Galaxy. Millions of dollars—how can I put it politely—were squandered by the previous government. This government is moving away from giving handouts to business and is putting money into infrastructure. Anyone who looks at the budget will see the enormous gains this government has made in providing support for infrastructure and tax cuts to business to improve the business environment in the state. That is where the priorities of this government lie.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister tell the parliament how many inquiries the small business office has received since the Labor government came to power in March 2002 until the end of this month?

The Hon. P. HOLLOWAY: I will be happy to get that information for the honourable member. I repeat, under this government we have established an Office of Small Business, which will incorporate the role of the former small business advocate—

The Hon. R.I. Lucas: No, it won't; you haven't read your briefing again.

The Hon. P. HOLLOWAY: Therefore, the small business advocate will be in the Office of Small Business within the government. It is interesting that the Leader of the Opposition seems to think that he understands more about the department than I. He certainly did not know much about what was going on when he was the minister, and I refer to the credit card rorts when we had thousands of dollars being spent. One of the difficulties this government has faced is to try to change the culture in the old department of industry and trade from the profligate waste that existed under the former minister and now Leader of the Opposition. The culture that existed in that department prior to this government's coming to office was nothing short of a disgrace. It has changed under this government.

WATTLE POINT WIND FARM

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about Wattle Point wind farm.

Leave granted.

The Hon. R.D. LAWSON: In May 2003, planning approval was granted for the establishment at Wattle Point (some 15 kilometres south-east of Yorketown) of a wind farm development—total investment $180 million and 59 turbines—to produce sufficient electricity for the grid to service the whole of Yorke Peninsula's needs. In July 2003, the then proponent Wind Farm Developments made application to the minister under the Aboriginal Heritage Act for necessary authorisations. The project was then taken over by Meridian Energy. However, in April this year, a report appeared in the *Yorke Peninsula Country Times* of objections by Mr Calvert Agius, Chair of the Narungga Heritage Committee, to the development. Mr Agius is quoted as saying:

> Not only could there be collapses of these turbines onto our burials in the dunes but having turbines so close to the coast will force people to commute over the dunes and foreshore.

On Saturday there appeared in the Public Notices of *The Advertiser* a formal notice by the minister under the Aboriginal Heritage Act, recording receipt of the application and the fact that on 24 May this year the minister determined that three sites encompassing the entire development area should be entered on the register of Aboriginal sites and objects. The notice continues:

> The proposed wind farm has the potential to damage or disturb one of these sites.

The notice goes on to seek written submissions and to advise of a proposed community meeting on 11 June at Port Victoria, such meeting open only to Aboriginal people and Aboriginal organisations. My questions are:

1. Will the minister confirm that application was first made to him in July 2003 for this particular authorisation?

2. What is the reason for the delay in embarking upon the consultation process which is just now being announced?

3. Is the minister aware of the fact that this company has let contracts and is ready to proceed with the establishment of its wind farm and has been led to believe that it is free to do so?

4. Has the minister been in communication with the company regarding this matter?

5. When does the minister envisage that this matter will be resolved?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): This government has taken very seriously the situation in relation to development clashing with Aboriginal culture and heritage. The applications for wind farms in many areas throughout the state have brought about a whole range of consultation processes with local heritage committees, the state heritage committee and the government in relation to how to deal with these matters. The issues that the honourable member has raised, in the main, are accurate. I will bring back information in relation to a more accurate chronological order regarding the dates and the applications to the point we are at now. I have been in contact with the developers in Auckland at a personal level, and that is as much as I can say. We are processing the application, using the consultation processes under the act, with local groups and the department. Section 23 is being pursued and, for that reason, I cannot add too much more to the speculative outcomes in relation to that section.

The Hon. R.D. LAWSON: Sir, I have a supplementary question. When does the minister envisage that this process will be concluded?

The Hon. T.G. ROBERTS: In relation to section 23, I cannot make any prediction. I can say that the process under the act will be concluded in approximately six weeks. It will depend on the results of the section 23 process in relation to what the next steps will be.

REGIONAL DEVELOPMENT BUDGETS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about regional development budgets.

Leave granted.

The Hon. CAROLINE SCHAEFER: When in opposition, this government made much of the fact that it would reduce consultancies across the board and, for many years, continued to tell us that consultancies were a bad thing and that there would be a very quick and deliberate reduction of consultancies when it took power. With respect to the minister's budget for trade and economic development I note that, on the page relating to trade development, in the 2003-04 year the government spent only $76 000 on consultancies, but for this financial year it has budgeted for $236 000. In relation to regional development, last year the government spent $23 000 and it has budgeted for $214 000 this year. Does the minister agree that the government has broken another promise and that, in fact, it is impossible to reduce both staff (which it has done) and consultancies, and would he like to explain the reversal of policy?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): It is not bad, those questions coming from a government that spent $110 million on consultancies in relation to the sale of ETSA.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: In relation to the trade activities of the Department of Trade and Economic Development, inevitably, many will occur overseas. For some years, of course, officers have been employed overseas—

The Hon. Caroline Schaefer: Not any more; you've closed them.

The Hon. P. HOLLOWAY: We have not closed all of them, by any means. We are looking at new, more efficient ways of delivering our services in overseas markets. For example, I have had discussions with Austrade about how one might be able to better use the Austrade network to promote trade in this country, and we have signed up with Austrade and the federal government in its objective to double the number of exporters by 2006. I have certainly had discussions with it on how we might better interact with its network. Some of the solutions we will see in future will be using those networks overseas, and we will be funding that through those lines of the budget because it is a more efficient and sensible way of doing it rather than necessarily having our own employees permanently stationed overseas.

It has also been made clear in the restructuring of this department that, to move away from the sort of culture we had under the previous government, we would certainly be looking at ways to get the more efficient delivery of business services. One of the ways to do that is in relation to policy development in these expert areas, and we will be looking at ways of doing it.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No wonder the Leader of the Opposition is upset: as a humiliated former treasurer he challenged us by saying, 'You won't be able to get a budget surplus.' This government is running accrual budget surpluses, which he said we could not do. That is why the budget just brought down by the Treasurer was given such accolades by commentators and the media. The Department of Trade and Economic Development, as it now is, has been undergoing some changes and more will come.

In the few months I have been in this job it has been my priority to consolidate that department and make sure that it is working as it ought to: as an effective unit of economic policy within this government. However, its philosophy has changed: it is moving away from being an agency with its prime function on service delivery to an organisation that will provide top level policy advice to government. Under this government the policy will be that government will fulfil its role of supporting business but will do so on a level playing field and will not be giving hand-outs to companies, as was the case in the past. I will certainly be happy that, as we go

through the estimates committee process in a few weeks, if the opposition wishes to go through all the details of those lines—

Members interjecting:

The Hon. P. HOLLOWAY: I am happy to take up the rest of question time on this.

The PRESIDENT: Order! The Leader of the Opposition is being uncharacteristically fractious today, while the Hon. Mr Redford is being characteristically fractious. There is too much audible interjection coming from both sides of the council. We will maintain the dignity of the council for the rest of question time, if possible.

OYSTER INDUSTRY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question regarding funding for the oyster industry.

Leave granted.

The Hon. CARMEL ZOLLO: While the bulk of the oyster industry's production goes to the domestic market, there is a growing demand from export markets that will drive future growth.

Members interjecting:

The Hon. D.W. Ridgway: Mr President, I cannot hear.

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: My question to the minister is: what is the government doing to assist this very important industry to grow in South Australia?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank the honourable member for her question. I can inform her that the Eyre Peninsula Regional Development Board has sought financial assistance of $20 000 in two tranches of $10 000 towards a feasibility study for the establishment of an oyster hatchery on Eyre Peninsula. This represents one-third of the cost of the study. The remainder is to be provided by the ERDB ($20 000), the South Australian Oyster Research Council ($10 000) and the South Australian Oyster Growers' Association, ($10 000).

The proposed feasibility study is to identify the best technology and infrastructure, identify and assess the most appropriate locations for a hatchery and develop a preliminary business plan and potential financial and organisational model. Some form of industry ownership structure is envisaged. The facility is the key factor in the industry's long-term sustainability in South Australia and its ability to expand to take advantage of lucrative export market demand. My predecessor in this portfolio approved the first tranche of the government contribution. I am happy to announce that the second has recently been approved.

The oyster industry is currently worth some $57.6 million to this state. South Australian growers are currently entirely dependent on Tasmanian hatcheries for their spat. Due to a number of factors, including some environmental and climatic issues, the supply of spat to South Australia has been severely limited in the past 12 to 18 months. This will have a serious impact on production levels in the next two to three years. This reliance on one source of spat has left the South Australian oyster industry in an extremely vulnerable state. While South Australia has an operational hatchery, it is widely acknowledged that it cannot adequately cater for the industry's rapidly growing demands. I look forward to the results of this feasibility study, which I hope will lead to the security of this very important industry for the state.

The Hon. T.J. STEPHENS: I have a supplementary question. Given that the government has a propensity for making announcements and offering money that will be delivered in the next number of years, will the minister give us an indication of which year this $20 000 will be delivered to the oyster industry?

The Hon. P. HOLLOWAY: As I indicated, that money has been granted already.

ANANGU PITJANTJATJARA LANDS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about reports related to the AP lands.

Leave granted.

The Hon. KATE REYNOLDS: In early 2001 the previous minister for aboriginal affairs and reconciliation met with the AP executive and was asked by it to assist its members develop knowledge, skills and protocols associated with the management and operation of the APY lands, according to the requirements of the Pitjantjatjara Land Rights Act. The minister then established a working group, I believe through the Office of Local Government, in conjunction with members of the AP executive. The intention, as I understand it, was to develop structures and mechanisms supported by an education program to achieve culturally appropriate good governance on the lands. That report should have been ready in early 2002, around the time of the state election. At the end of 2001 the then minister also established what was known as the petrol sniffing task force, which included, I am told, a wide range of government agencies, including SAPOL and also an officer from the office of the federal Minister for Aboriginal Affairs. My questions to the current minister are:

1. Will the minister advise why the report of the government's working group has not been tabled in the parliament or, I understand, presented to the AP executive?

2. When will the minister table the report and provide a copy to the AP executive?

3. What strategies, if any, has the government introduced to support the development of culturally appropriate good governance on the lands since it came to office in March 2002?

4. Has the petrol sniffing task force report ever been made public and has it been provided to the AP executive or any of the agencies involved in the task force? If not, why not?

5. What actions, if any, were taken in 2002 and 2003 to act on the recommendations contained in that report?

6. When will the minister table the report that he commissioned from the University of South Australia which he said on Wednesday would be tabled on Thursday?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her questions. In relation to the local government discussion for good governance on the lands, I am aware that under the previous government some work was being done with the AP in discussing some options. I held some workshops in the first months of gaining government with the AP in relation to expressions of preference regarding various forms of governance to try to get around the difficulties that I, and others, foresaw in using the APY Lands Council as a

form of governance that would run into problems. It has run into problems in relation to discharging its responsibilities across agencies and the limitations that the current structure offered. There has been agreement with the APY to move forward with a different form of local governance structure and it was in the process of looking at some of the alternatives in other states, including the Northern Territory.

In relation to the petrol sniffing task force, my understanding is that it was set up under the previous government, commissioned by the police minister. I think the report rests with the Minister for Police, and the honourable member is right—there were recommendations out of the police report that the government was considering in relation to dealing with petrol sniffing as early as 2002 and 2003.

I will bring back a report on the work that has been done with the AP in respect of local governance. I am not quite sure what discussions went on with the Office of Local Government, but I understand that the previous government did put together a report or at least that there were discussions and negotiations with the Office of Local Government and possibly the LGA. I know that the LGA has put out a report that includes good governance, not just in the AP lands but also for Aboriginal participation generally, and we will be using that as the basis for discussion once we are able to engage the AP around these important issues.

I did indicate that I would bring the University of South Australia report back on Thursday. Unfortunately, the report rests with DAARE. We are now getting it into a shape where we can table it as soon as possible this week.

The Hon. KATE REYNOLDS: I hope that the minister, when he has finished answering his phone, can tell me whether and when he will table the governance working group report and the petrol sniffing task force report.

The Hon. T.G. ROBERTS: I give an undertaking that it will be as soon as possible.

ROAD FATALITIES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Attorney-General, questions regarding the power of the State Coroner to monitor the state's annual death toll.

Leave granted.

The Hon. T.G. CAMERON: It was recently reported in *The Advertiser* that the State Coroner, Wayne Chivell, is seeking wide-ranging powers to monitor the state's annual death toll, revealing that 70 per cent of deaths are currently not scrutinised. Of the 12 161 deaths recorded for the year 2002-03, just 3 671 were reported to his office. Currently if a person dies at home, doctors can issue a certificate over the phone and send it off to the Registrar of Births, Deaths and Marriages without even seeing the patient. Similarly, if someone dies in hospital, it is up to the hospital staff to decide whether they will report the case to the Coroner. Mr Chivell was quoted as saying:

> That leaves 8 490 cases where a doctor has concluded that he or she has sufficient evidence to write a death certificate. This certificate goes straight to the Registrar of Births, Deaths and Marriages and is not scrutinised by the Coroner or anyone else. The registry does not exercise any qualitative analysis of information it receives and does not do any research into the database.

The current circumstances are similar to those in Britain which masked the murderous medical career of family doctor Harold Shipman, who killed at least 215 of his patients. Mr Chivell believes South Australia should follow the British government and require that all deaths be reported. He would like to see all death certificates from doctors forwarded to his office for examination; power to seek further information from the doctor, family, friends and work mates, if necessary; and the ability to investigate hospitals, nursing homes, institutions and GPs.

Mr Chivell's position is supported by the Australian Medical Association. AMA state President, Dr William Heddle, has stated that the concerns are justified and that there is a potential for suspicious deaths to occur and not be reported. My questions are:

1. Is the Attorney-General satisfied with the current system of monitoring the state's death toll?

2. Is the minister aware of any suspicious deaths that were not investigated by the Coroner due to his lack of powers?

3. Considering the number of deaths that are not scrutinised in any way and the inherent suspicious deaths risk associated, will the government consider introducing measures so that all deaths are required to be reported to the Coroner, as well as broadening the powers of the state Coroner to enable him to seek further information on deaths where appropriate?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will pass that question on to the Attorney-General and bring back a reply.

ADELAIDE WOMEN'S PRISON

The Hon. A.J. REDFORD: My question is to the Minister for Correctional Services. Given the appalling treatment of women who were denied access to sanitary products, toothbrushes and showers at the City Watchhouse in June last year, the fire that caused severe damage to the Adelaide Women's Prison in March this year and the statement to parliament last year that the situation of women in prisons in this state was dire and that the government 'has a determination to build a women's prison':

1. Why can the government not find a site for a women's prison in the 980 000 square kilometres of this state?

2. What short-term arrangements have been made to ensure that the government complies with its legal and moral obligations while it tries to get this project off the ground?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question. In relation to the state of the watch-house, the circumstances were as the member has described. My understanding is that that situation was remedied soon after, although it is not my portfolio area per se. As to his question about finding a site, the honourable member would be aware that the situation in regard to the women's prison has been difficult in that a site was picked out but was rejected in the main by the residents of the area.

At this stage, we are putting together a fund to try to progress the investigations into the future infrastructure needs for all of correctional services, and the women's prison will be included in that. A site will be chosen. As I have pointed out in this chamber on many occasions, the infrastructure of our prisons within this state has to be changed. We are dealing with very old infrastructure, not only in relative terms within the state, but—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The honourable member says we do a lot of talking. Prisons are not easy to get off the ground. A prison that was built in Victoria was totally

unsuitable and had to be decommissioned before it was commissioned. We do not want to get into that situation. In New South Wales there was a 3½ or four year wait for a prison from the time of its proposal to its opening. Prisons are not easy structures to build and are not inexpensive, so honourable members on the other side must work out (as do we) what priorities they attach to the state's needs.

This government felt that it was financially responsible to allocate priority funding to health, education and child protection, but we will work our way through the system. We have acknowledged that the infrastructure is antiquated. I have acknowledged in this council on many occasions (and all members who have been there will know) that the women's prison is not suitable in this day and age to house women in a rehabilitative atmosphere. The recent fire will enable us to refurbish one section of it, and we have to find funding to deal with that.

The Hon. A.J. REDFORD: I have a supplementary question. How can the minister say that the illegal overcrowding in the Adelaide watch-house is not in his portfolio area when it was caused by overcrowding in the women's prison?

The Hon. T.G. ROBERTS: I thought the honourable member was making an issue of the sanitary conditions in the watch-house. Our prison system and systems for arrest and detaining prisoners who have not been charged with an offence come under pressure at times. The ARC sometimes has its pressures and Yatala prison has been used to take pressure off.

I have acknowledged in this council that our suite of structures sometimes make it very difficult for prison management to deal with the various categories of prisoners within the state, and sometimes there is pressure on a particular Correctional Services institution as a result of the categories of prisoners that we have to deal with. I applaud the management who have dealt with these issues over a very long period. We are working our way through these issues to try to deal with the problems, but honourable members must understand budget pressures and priorities, and that is what this government is doing.

The Hon. A.J. REDFORD: I have a further supplementary question. Can the minister give the council a guarantee that the illegal conduct that occurred in the city watch-house last year will not recur as a consequence of his government's failure to find a site for a women's prison?

The Hon. T.G. ROBERTS: I cannot give any such guarantee. If circumstances bring about a whole range of arrests and detentions over a particular period, I cannot give any guarantees that there will not be temporary overcrowding problems, but I can give the honourable member an undertaking that those temporary conditions will not be of any permanency.

The Hon. J.F. STEFANI: Can the minister advise how many prisoners are held in the women's prison; how many places were lost due to the fire; and how many women prisoners are held in other than the women's prison (that is, the Adelaide Remand Centre, the Adelaide watch-house or other holding places) on a temporary basis?

The Hon. T.G. ROBERTS: Because of the number of questions and the detail required to do justice to them, I will have to refer the questions to the department and bring back a reply.

SPEED CAMERAS

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Transport, a question about speed camera locations and road fatalities.

Leave granted.

The Hon. J.M.A. LENSINK: On 24 May this year, I received a reply to my question on notice regarding the 20 most common locations of speed cameras in the year 2003. Upon comparing this information with the locations of serious road accidents and fatalities and documents obtained under freedom of information and details published in *The Advertiser* of 3 January, there is a poor correlation. We know that speed is a factor in road accidents, particularly serious ones, yet only two of 20 on the list of the most popular speed camera locations—that is, West Terrace, Adelaide and the Victor Harbor Road at Mount Compass—were the locations of tragedies in 2003. Yet in an article dated 25 March entitled 'Road deaths reduced in 50-kilometre per hour zones' the transport minister cited research showing that fatalities had reduced on 50 km/h roads, saying that 'safety on our roads' is the most important thing. Analysis of speed camera locations shows that the most common placements include multiple lane major roads, locations where there is a speed change, 50 km/h zones and hills. My questions are:

1. In light of the lack of correlation between the placement of speed cameras and serious road accidents or fatality sites, will the government admit that speed cameras are prioritised as a revenue raising tool?

2. Does SA Police have a target level of revenue that it is expected to raise from the collection of fines from speed cameras and, if so, does this influence the placement of them?

3. Will the government release the policy referred to by Superintendent Roger Zeuner in *The Advertiser* of 26 May 2004?

4. What parameters constitute a 'road safety risk' in the placement of speed cameras, as mentioned by Superintendent Zeuner in that article?

5. Will the government admit that it has been negligent and knowingly deceptive in the placement of speed cameras by failing to target recognised serious accident locations?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will pass those questions on to my colleague. I suspect that it is probably more the Minister for Police rather than the Minister for Transport who will provide the answers to most of those questions, but I will ensure the honourable member receives an answer from one of my colleagues.

ABORIGINAL EDUCATION

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about Aboriginal South Australians achieving the certificate of education.

Leave granted.

The Hon. G.E. GAGO: I refer to an article on page 23 of *The Advertiser* dated Monday 24 May 2004 titled 'Aborigines recognised'. The article reports that 55 young Aborigines have been recognised for achieving their certificate of education. The article states that the graduates in the Festival Centre ceremony were country and metropolitan students, including five from the Pitjantjatjara lands who

attended the Wiltja program at Woodville High School and five from Port Augusta. Given this, my questions are:

1. Is the minister aware of the ceremony held last week?

2. Will the minister inform the council of the government's action in this area?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question and continuing interest. The ceremony which the article in *The Advertiser* refers to is the fifth annual Department of Education and Children's Services celebration for Aboriginal and Torres Strait Islander students who achieve their South Australian Certificate of Education. In 2003, 55 Aboriginal students from all sectors achieved their SACE, with 41 from the DECS sector. This is one of the largest groups of indigenous students to achieve their SACE. Many are the first in their families and their communities to achieve the SACE.

The Primary Principals Association research paper, 'Partnering a Better Future 2000', shows that, where and when Aboriginal parents are involved in decision making, student learning outcomes improve, and therefore developing authentic relationships with Aboriginal communities at each site and with the parents, friends and support groups are the priorities for the schools. Involvement of Aboriginal people in decision making about the SACE will reap sustained improved SACE outcomes. There has been a whole range of achievements and successes. The numbers are slowly starting to grow, and we have taken a number of initiatives, particularly at primary level, in relation to holding children's interest within schools and ensuring that the goal is reached in terms of attendance.

Port Augusta has had five successful SACE graduates, and Woodville High School has had five successful students through the Wiltja program. The students are from Pitjantjatjara lands and other outlying regions. I think we have to acknowledge the good work that mentors play with respect to this role. The difficulty with respect to children coming from regional areas is known, and support has to be given to overcome homesickness to get the results that we have been achieving. This government is broadening its efforts to support young Aboriginal people through a $28.4 million school retention action plan, which includes funding for accommodation and summer holiday mentoring programs for some Aboriginal students studying SACE and also replicating successful education programs in other schools.

There are some good stories to be told in relation to education. We hope that this leads not just to education for its own sake but also to education, training and professional development that can be used in the regional areas from where the young people have come. We hope that, by improving the retention rates, we are able not only to increase the number of SACE students but also to increase the number of young children, in particular, in state schools so that they have a chance of obtaining the SACE certificate or at least being involved and developing sufficiently to reach the SACE certificate level.

The Hon. T.J. STEPHENS: Sir, I have a supplementary question. The minister spoke of a $28.4 million action plan. Over what period is that $28.4 million to be delivered?

The Hon. T.G. ROBERTS: I do not have any details from the department in relation to the length of time that the $28.4 million will be delivered, but I suspect that it will be over four years. I will refer that section of the question to the minister and bring back a more accurate reply.

The Hon. J.F. STEFANI: Sir, I also have a supplementary question. Can the minister advise the council what specific programs the government has initiated to provide young Aboriginals with the opportunity to further their sporting abilities, and what particular areas have been targeted?

The Hon. T.G. ROBERTS: I am aware that there are programs to maintain the interest of young Aboriginal people within the school system using sport as a motivator. I will refer that question to the Minister for Recreation, Sport and Racing and bring back a reply.

GREY WATER

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question about grey water recycling.

Leave granted.

The Hon. SANDRA KANCK: 'Grey water' is a term used to describe water which has been used but which is still potentially reusable—and water from showering and clothes washing are a couple of examples. Reusing grey water costs the government nothing financially and can result in reduced demand on filtered tap water. In most urban areas the drainage from such activity is connected to the sewerage system, and it is apparently illegal to divert that water from the sewerage system. For some in the drier areas of the state this wastage is seen as a waste of a precious resource. Householders who wish to reuse grey water on their lawns and gardens are legally prevented from doing so and must use tap water. In the interests of decreasing the use of that costly and precious tap water, my questions to the minister are:

1. Is it correct that householders who divert grey water to their gardens and lawns are breaking the law? Why does this continue to be a misdemeanour and what is the penalty for breaking that law?

2. Will the minister consider amending the legislation or the regulations so that householders across the state can be encouraged to reuse grey water from showering and clothes washing, thereby making less demand on filtered tap water? If this is not possible across the state, will the minister consider amending the legislation or the regulations so that at least those water users in the drier areas of the state can reuse their grey water?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her questions. I do not have all the details, but I am aware of some of the issues surrounding grey water. I will put on the record that South Australia is probably the leading state in Australia in relation to the reuse of stormwater. Grey water is one of those areas where we can more strategically prevent the use of filtered water, which is much more expensive than that which comes into our taps and is of far higher quality than would be needed to water gardens, for instance. There needs to be a fresh look at how we use collected grey water, particularly from household rooves and from any collectors within our own boundaries and how we reuse that water. I will refer those questions to my colleague and bring back a reply.

REPLIES TO QUESTIONS

SOUTHERN SUBURBS, PUBLIC TRANSPORT

In reply to **Hon. T.J. STEPHENS** (31 March).

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

The Government is committed to providing accessible, integrated and affordable public transport systems across South Australia, particularly for the transport disadvantaged. As such, it is involved in numerous initiatives across the State, including the southern suburbs, in an effort to ensure all members of the public are able to access passenger transport services.

The Government's policy for the Southern Suburbs stated that it would review the passenger transport boundaries in the north and south to ensure the boundaries are fair and equitable. In line with this policy, the southern boundary was extended on 5 October 2003 to include Aldinga, McLaren Vale, Willunga and Sellicks Beach into the AdelaideMetro network and into the integrated ticketing system. This has resulted in more affordable services for these areas.

The Government continues to improve public transport infrastructure in the Southern Suburbs, with the development of a new bus interchange at Old Reynella (park and ride facilities) opened in October 2003, and improving the Noarlunga Station with landscaping improvements and a major refurbishment to coincide with the 25th anniversary of the station. In addition the Government increased the capacity of the park and ride at the Hallett Cove Beach Station in December 2003.

In regard to community bus services, the Marion and Onkaparinga Councils received $30 000 each in the Government's 2003-Budget to apply to community-based bus services.

CORRECTIONAL SERVICES, GAMBLERS' REHABILITATION

In reply to **Hon. NICK XENOPHON** (31 March).

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

First, what progress has been made to provide gamblers rehabilitation services in the correctional services system, particularly for incarcerated prisoners with a gambling problem?

The Department, in conjunction with Relationships Australia has facilitated the running of a number of Break Even programs. These programs have been presented at Mobilong, Port Augusta, Mount Gambier, the Adelaide Women's Prison, and the Cadell Training Centre. Also, there is a well developed referral process for prisoners in the Adelaide Pre-release Centre for involvement in community based programs aimed at assisting addressing gambling problems.

Secondly, will he advise whether the government has yet to undertake a survey on the number of inmates who have been incarcerated as a result of a gambling-related offence, given the findings of the Australian Institute of Criminology last year that gambling is the second largest cause of fraud and embezzlement in the country and, if not, why not?

No surveys have been conducted. However, sentencing remarks will often refer to reasons for offending and whether they may be gambling related. Further, during the prisoner assessment process and the development of the prisoner's Individual Development Plan issues associated with the offending behaviour are identified and taken into consideration in programs and activities that should be pursued in order to aid rehabilitation. This includes whether the offending behaviour may be gambling related.

Thirdly, are there any screening mechanisms in place for newly admitted inmates to ascertain particular major problems from which they may be suffering, including drug, alcohol and gambling addictions, similar to screening programs that exist in New Zealand, and, if not, why not?

During the initial induction process, both remand and sentenced prisoners are asked a series of questions to ascertain both mental and physical well being and whether the person is at any risk of self-harm or engaged in the use of drugs or alcohol in the period immediately prior to their admission. No questions are asked at this time about gambling.

Fourthly, are any such screening mechanisms planned?

No.

Fifthly, does the government have any programs in place to assist prisoners in the pre-release phase with respect to gamblers' rehabilitation for those prisoners who have had gambling problems before their release into the general community?

The program Break Even, run in conjunction with the Department and presented by Relationships Australia is presented for both pre and post release for prisoners. Prisoners, post release are referred to community based breakeven service providers.

The Department is also aware that the Department for Human Services is developing a community awareness package for problem gamblers. It is intended that that package will be adapted for presentation to those that may be held in prison or being supervised through Community Correctional Centres as a result of gambling related offences.

OFFICE OF THE UPPER SPENCER GULF, FLINDERS RANGES AND OUTBACK

In reply to **Hon. D.W. RIDGWAY** (23 September 2003).

The Hon. T.G. ROBERTS: The Premier has provided the following information:

1. I am advised that The Office of the Upper Spencer Gulf, Flinders Ranges and Outback works with community organisations, local leaders and State Government agencies to enhance the delivery of services and development of policy for the region. It adds value to the role of State Government agencies in regional areas and compliments the regional development framework.

The Office services a range of regional communities, providing a shop front for State Government and a link between the public and Cabinet Ministers.

The Office acts as a link between local people and the State Government by establishing projects and partnerships with local communities, which seek to fulfil State Government policies.

2. There are currently 2 employees, apart from the Manager who work within the structure of the office of the Upper Spencer Gulf, Flinders Ranges and Outback. In addition there are two public sector trainees who work within the office structure.

Until late last year an Interagency Support Officer was employed to assist with the development of whole of government support functions. She was funded by the Department of Transport and Urban Planning.

There is also an officer of the Office of Employment who is housed within the building, but answering directly to her agency.

3. & 4. Positions, classifications and salary levels as follows:

Ministerial Officer

The Ministerial Officer is administratively employed by the Minister for Urban Planning. The Schedule of Duties as advertised was as follows:

- Form part of a Ministerial Team to promote a comprehensive, whole of government approach to public and policy issues.
- Identify, research and act on issues relevant to the office.
- Initiate and/or undertake projects at the request of, or with the approval of, the Minister which progress policy or promote achievements within the Minister's portfolios.
- Provide ideas, information and community feedback to assist in the development and implementation of policy.
- Liaise with members of the public, business, local government, Members of Parliament, community groups and Government agencies to address issues of concern to the Minister's portfolios.
- Develop a working knowledge of parliamentary procedures.
- Ensure the positive marketing of Government projects with oversight on all Departmental/agency communication and publications to ensure whole of Government communication objectives are achieved.
- Other duties as directed.

Annual salary is $52 571

Administrative Officer—classification AS0202

Employed as an Administrative Officer for the Office of the Upper Spencer Gulf, Flinders Ranges and Outback to:

- Provide a range of comprehensive, effective and timely administrative and clerical support services which contributes to the efficient and effective management and operation of the Office of the Upper Spencer Gulf, Flinders Ranges and Outback by:
  - Providing a high level of service to customers of the Office, encompassing screening and handling telephone calls and receiving visitors
  - Processing incoming and outgoing correspondence and other associated records management systems
  - Overseeing the provision of efficient and timely correspondence follow up services
  - Undertaking basic investigations and drafting replies to routine correspondence and inquiries

- Providing timely and accurate word processing services for Office staff, including ensuring word processing is efficiently handled and meets appropriate standards
- Coordinating arrangements for meetings and appointments, including the preparation of agendas, arranging venues, recording and distributing of minutes and other relevant documentation and follow-up issues for action
- Undertaking relevant purchasing activities
- Arranging venues, accommodation and associated resources for Office staff attending meetings and/or conferences, including making travel arrangements
- Organising processing of expense/reimbursement of claims
- Assisting in the preparation of Ministerial correspondence
- Assisting with the development, implementation and maintenance of a range of office management and administration systems
- Assisting with maintaining and monitoring administrative quality management procedures
- Arranging intrastate, interstate and overseas travel itineraries and associated hospitality services for Office staff
- Providing a range of hospitality services for the Office, including facilitating the arrangements for functions and ensuring the hospitality needs of visitors are met
- Providing a range of other personal secretarial and administrative support services as required.
- Works as part of a team to achieve the goals of the Office

Annual Salary is $35 861

5. One Government plated vehicle has been allocated to Regional Ministerial Offices, and this is located in Port Augusta for use by the staff of the Regional Ministerial Office in accordance with the appropriate guidelines.

6. The budget for Regional Ministerial Offices is administered by the Department for Transport and Urban Planning under the budget line of the Office for Sustainable Social, Environmental and Economic Development. The Minister responsible for the administrative arrangements and functioning of the office is Minister White, although the Manager reports directly to the Premier on the activities, programs and projects being undertaken by the office.

7. The Office of the Upper Spencer Gulf, Flinders Ranges and Outback is willing to work with Members of Parliament, in their capacity as local leaders, when requested.

8. I am advised that Naomi Bartlett accompanied Ms Lyn Breuer MP to Hawker at the request of Ms Breuer who was invited to meet with local residents to discuss a range of issues. Mr Jarvis was not present at this meeting.

FREEDOM OF INFORMATION

In reply to **Hon. R.I. LUCAS** (14 July 2003).

The Hon. P. HOLLOWAY: I have been advised of the following information:

1. Mrs Pat Jarrett did attend the meeting on 16 January 2003.

2. Ms Sally Glover the former Senior Legal Adviser to the Premier attended the meeting on 16 January 2003 as a representative from the Premier's Office.

Ms Glover did not provide legal advice in relation to the FOI application and did not give any directions about the handling of the application. A senior officer from the Crown Solicitor's office attended to provide legal advice.

The Department of the Premier and Cabinet processes FOI applications on behalf of the Premier's office. The processing of applications is dealt with in conjunction with relevant officers from the Premier's office who are familiar with the documents which are the subject of the application. The relevant officers are in a position to inform the accredited FOI officers about the background and nature of the documents and the likely consequences of the release of the documents. This information is required to assist accredited FOI officers in making a determination under the Act. The determination is subject to an internal and external review if sought by the applicant.

In response to the supplementary questions:

The Premier's ministerial advisers do not form part of the decision making process.

I refer the honourable member to the Freedom of Information Act 1991.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

Consideration in committee of the House of Assembly's message.

(Continued from 27 May. Page 1660.)

The CHAIRMAN: When the committee last met it resolved to insist on amendments Nos 2, 4, 5, 9, 13 and 25. We are now considering amendments Nos 14 through to 26, 35 and 37 to 42.

The Hon. T.G. ROBERTS: I move:

That the council do not insist on its amendments Nos 14 to 16, 18 to 21, 23, 26 to 35 and 37 to 42.

Motion negatived.

NATURAL RESOURCES MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 27 May. Page 1661.)

The Hon. SANDRA KANCK: This is a welcome bill, specifically because it is part of the slowly growing recognition that this state's long-term economic viability is irrevocably linked to the health of our natural systems such as water and soil. Such understanding has been slow to emerge and the Democrats state here, to paraphrase the Bible, that this government's left hand does not know what its right hand is doing. Shortly after debate on this bill began—a bill that implicitly recognises that South Australia's natural systems are under strain and need very careful management—the state government announced its aim of increasing South Australia's population by more than 30 per cent by the year 2050.

Eventually, we hope to see a more holistic approach from the government and, for the time being, we have to be grateful for small morsels such as this legislation. It is a very complex piece of legislation, which amends 15 other acts. Additionally, and most significantly, it repeals the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986, the Soil Conservation and Land Care Act 1989 and the Water Resources Act 1997.

The various bodies such as soil conservation boards and catchment water management boards, which currently exist under the three acts which are to be repealed, may continue to exist under transitional provisions in the schedule of this bill. It appears that they will ultimately be phased out to be replaced by the NRM council and regional NRM boards: eight of them, if the July 2003 edition of NRM Directions SA is to be believed. With the capacity for more locally focused NRM groups, there is already in operation an interim NRM council.

In addition, each of these new bodies will have the power to set up committees. Indeed, the legislation spells out that they will be required under regulation to set up specific committees that will be prescribed. So, the operations of the current bodies will continue, albeit with the occasional renaming and with different kinds of duplication and accountability. The NRM Council will be required to develop a state natural resource management plan. The regional NRM boards—with input from the more local NRM groups—will be required to develop regional NRM plans, water allocation plans and concept statements, which can include recommendations for amendments to the development plan and proposals for levies.

This bill has been a long time in the making. The Democrats acknowledge the work done by the former Liberal government which had prepared the Integrated Natural Resources Management Bill. With that bill as background and with the public consultation process that the current government has undertaken, it has been years getting to this point, but it has been time worth taking, because it will reduce overlap and duplication and stop reinvention of the wheel. The present government released a discussion paper in November 2002, then released a draft bill in July 2003 which was further amended. That version was tabled in parliament in December 2003 rather than being introduced so that the LGA could consult with its members. It was finally introduced into parliament in February this year.

As a state, as we begin to more clearly grasp the enormity of some of the environmental problems that we have created over time due to a lack of understanding of how natural systems operate, it is vital that we have a more coordinated approach to our natural systems and to our natural resources. There have been some who have seen this bill as anti-farmer, but most farmers understand how their livelihoods are totally linked to the health of the natural environment. If we simply exploit the resources of our natural environment we end up like the koalas on Kangaroo Island—consuming the resources until they are severely depleted and then finding out that there is nothing else left to sustain us.

The government's second reading explanation tells us that this bill is 'built fundamentally on the concept of ecologically sustainable development.' This is outlined in clause 7, the objects of the act, and the Democrats commend the government for this. However, I do express one slight disappointment about clause 7(3)(e). Subclause (3) provides:

> The following principles should be taken into account. . . with achieving ecologically sustainable development for the purposes of this Act:

As it started out in the House of Assembly, paragraph (e) provides:

> A fundamental consideration should be the conservation of biological diversity and ecological integrity.

Unfortunately, the word 'fundamental' has been deleted, and I cannot see that you can have a bill for natural resources management and not make it a fundamental consideration. So, that is certainly a disappointment to the Democrats.

Central to the concept of ecological sustainability is that we should not use resources at a rate that would prevent future generations from having equal access to the same resources. The definition of ecologically sustainable development in this bill is slightly different to the definition of ecologically sustainable development in the Environment Protection Act. That slight difference is that—and perhaps the minister might be able to explain why we do have this difference—the bill gives an explanation of what ESD is in clause 7(2) and provides that it comprises:

> . . . the use, conservation, development and enhancement of natural resources in a way, and at a rate, that will enable people and communities to provide for their economic, social and physical well-being while—
>
> (a) sustaining the potential of natural resources to meet the reasonably foreseeable needs of future generations;

In the Environment Protection Act it is 'sustain the potential of natural and physical resources'. Similarly, in clause 2(b) in the Natural Resources Management Bill we have, 'safeguarding the life-supporting capacities of natural resources.' In the Environment Protection Act it states, 'safeguarding the life-supporting capacity of air, water, land and ecosystems'. They are slight differences but, when push comes to shove, if someone is trying to get some of this nutted out in the ERD Court—which is where I suspect it will eventually be sorted out when someone complains about a decision—those differences will need to be justified. The federal Environment Protection and Biodiversity Conservation Act's definition of ecologically sustainable use states:

> Use of natural resources within their capacity to sustain natural processes while maintaining the life-support systems of nature and ensuring that the benefit of the use to the present generation does not diminish the potential to meet the needs and aspirations of future generations.

I personally think that that is a much better definition and we might have been better in both our Environment Protection Act and in our Natural Resources Management Bill that is before us to have a definition of that nature. As I said, it will probably be the Environment, Resources and Development Court that will sort it out.

I turn now to the issue of the composition of the NRM Council and NRM boards. This bill is titled the Natural Resources Management Bill and, in its long title, it refers to the management and protection of this state's natural resources. Clauses 13(5) and 25(4) of the bill contain a list of the range of knowledge and expertise that the minister should give consideration to in selecting people for that council. The bill states the following:

> give consideration to nominating persons so as to provide a range of knowledge, skills and practical experience across the following areas:
>
> (i) primary production or pastoral land management (on the basis of practical experience in these areas);
>
> (ii) soil conservation and land management;
>
> (iii) conservation and biodiversity management;

and the other nine follow. I find it most peculiar that third on the list is conservation and biodiversity management. This is, after all, a natural resources bill and surely skills, knowledge and practical experience in conservation and biodiversity management ought to be the one that is up the top. I know that the order of these criteria is not likely to affect any choices made by the minister in making appointments, but it does make a statement about our priorities. Because I have concern about the philosophical message contained in this provision, with primary production being the first one listed, I will have an amendment drafted that puts conservation and biodiversity management at the top of that list of criteria.

In representations made to me, concerns have been expressed that this bill will be managing only some natural resources. Questions have been asked about why air quality or stormwater or, for that matter, native vegetation and the Pastoral Board were not included as part of the original brief when the bill was being developed and under discussion. Given what went out in the first instance, it is very clear that the bill was only ever about amalgamating the animal and plant control bodies with the soil conservation bodies and water resources bodies. It is not surprising that native vegetation and the Pastoral Board were not included in the amalgamations. According to the July 2003 edition of *NRM Directions South Australia:*

> NRM reform will tackle the potential problems of sectoral decision making, duplication of planning processes, landowner confusion and the provision of conflicting advice by providing common structures under a new integrated NRM framework.

I question whether we will be able to achieve that when we do not have issues such as native vegetation and pastoral land management included in this bill.

The Farmers Federation recently released policy document 'A Triple Bottom Line for the Bush' contains a table of the current acts which are relevant to natural resources management and farmers. Twenty four acts are listed, and I think it is worthwhile reading them all. They are, in alphabetical order: Aboriginal Heritage Act 1988, Aboriginal Lands Trust Act 1966, Animal and Plant Control (Agricultural Protection and Other Purposes Act) 1986, Country Fires Act 1989, Crown Lands Act 1929, Dog Fence Act 1946, Environment Protection Act 1993, Fruit and Plant Protection Act 1992, Heritage Act 1993, Interest on Crown Advances and Leases Act 1944, Irrigation Act 1994, Irrigation (Land Tenure) Act 1930, Lake Eyre Basin (Intergovernmental Agreement) Act 2001, Loans for Fencing and Water Piping Act 1938, Loans for Water Conservation Act 1948, Marginal Lands Act 1940, Native Title (South Australia) Act 1994, Native Vegetation Act 1991, Pastoral Land Management and Conservation Act 1989, Soil Conservation and Land Care Act 1989, South Eastern Water Conservation and Drainage Act 1992, Upper South East Dryland Salinity and Flood Management Act 2002, Water Conservation Act 1936, and the Water Resources Act 1997. Indeed, when I looked through that list I wondered whether there might be 24 acts because the River Murray Act is not included in it.

I note that, while that list is fairly exhaustive and exhausting, not all of those acts would apply at the one time to all farmers. Farmers in the South-East of the state, for instance, would not be answerable under the Pastoral Land Management and Conservation Act, and farmers in the Far North will not be bothered by the Irrigation Act. The SAFF document describes these acts as 'command and control' legislation and makes the point that, historically, there have been few positive incentives for farmers to conserve the environment and biodiversity. This bill does not appear to go much further in this regard. For farmers, the changes would appear to be small, despite the claims that I read from the NRM's *Directions* newsletter. They will have just two less bureaucracies to deal with, which I suppose might be some improvement.

I received a submission from Jim Vickery, a former chair of the pastoral board and a former chair of the Arid Water Resources Advisory Committee; and he has held and currently holds a host of other positions. He appears to be eminently qualified to speak about these issues. He makes this comment about the bill:

> I am concerned that application of the bill in its present form to our Outback arid rangelands will continue to frustrate the efforts of the pastoral board to effectively perform its responsibilities under the pastoral lands legislation by perpetuating the hitherto conflicting duplication of land management agencies in our Outback and also by maintenance of the plethora of regional boards and groups which have hitherto promoted interdepartmental policy conflicts and contributed to the natural resources disaster which I believe presently exists.

The responsibilities of the pastoral board, for instance, will continue to overlap with NRM boards and groups just as they currently do with the animal and plant control, soil conservation and water resources bodies. While the pastoral board can oversee land management in the arid areas of this state in terms of the number of sheep and cattle that can run on a particular lease, it does not have the power to control other animal populations. This raises the question of how the NRM boards and groups will interact with the other land management bodies such as the pastoral board and the Native Vegetation Authority.

When he sums up at the end of the second reading debate, I would appreciate some feedback from the minister as to how the Pastoral Board and the Native Vegetation Council will interact with the NRM council, the NRM boards and NRM groups. Clauses 25(4)(c)(ii) and 48(5)(b) have similar wording. This is in regard to NRM boards and the sort of qualifications and experience people should have amongst those whom the minister should choose for those boards. Paragraph (c)(ii) says that the minister should endeavour to ensure that a majority of the members of the board are engaged in an activity related to the management of land.

I believe that it should be wider than management of the land and, in fact, should be management, rehabilitation or conservation of the land because one can look after land such as this in a number of ways and management is not the only way. Going back to the letter to which I referred from Mr Jim Vickery, he suggests that the NRM Bill statutorily establish an NRM local group of outback land and resources user interests to be known as the outback management advisory council to provide outback regional advice to the respective resources management agencies on the management of rangelands, wildlife, pest and feral animal populations, tourism, recreational and water resources issues. I think that this is an intelligent suggestion, and I hope that the minister in choosing people for any NRM group that covers pastoral lands would take some of this on board, but I note in particular that he raises the issues of tourism and recreational use, in addition to the three things with which this bill deals, that is, the pests, the water and the soil.

There is no doubt that tourism can be a saving grace for pastoralists. It does concern me somewhat, given, first, that it can be a saving grace for pastoralists; and, secondly, in relation to recreational uses to which he refers, there is potential for great damage of this land. As things currently stand, we may not get the appropriate representation on a group such as that. I raise these matters as Mr Vickery has brought them to my attention because I think what he has to say should be heeded by the minister.

In schedule 4 and in the long title of this bill, I note that there is no reference to the Development Act. I think this is complicated by the advent of the so-called Sustainable Development Bill, the draft of which has been out for discussion for the past couple of months in South Australia. I ask the minister: how will the various bodies associated with those two acts—that is, this particular act when it comes into force and the Development Act—interact; and which bodies at which level will be speaking to each other and how exactly will that be accomplished?

Certainly, it seems to me that there needs to be a very strong relationship between them. For instance, I know that, with development applications in the past, there has not been any requirement for input from the soil board. When we know that tractors can bring phytophthora into an area, you would think that having input from the soil board would be really important. But as things currently stand, with the interactions that exist between the Development Act and soil board authorities, it is very easy for that transfer of soil viruses and infections to occur without any input at all. I indicate that, although this bill will hardly be the saviour of South Australia's natural resources, the Democrats believe it will be a few steps forward and we support its passage.

The Hon. J.S.L. DAWKINS: I initially want to support the comments of the opposition's lead speaker in this council, the shadow minister for primary industries and regional

communities (Hon. Caroline Schaefer). I also acknowledge the enormous work put into legislation by the Hon. Mrs Schaefer and the shadow minister for environment (the member for Davenport) in another place. The significant amendments to and improvements of this bill in the House of Assembly have resulted from the efforts of these two members of the Liberal front bench following their response to community feedback about the legislation.

One of my concerns about this bill is that all the facets of natural resource management have been bundled together under the authority of one minister, the Minister for Environment and Conservation. In my view, it is imperative that at least the Minister for Agriculture, Food and Fisheries should have strong input into this overarching bill. Anyone with experience in rural areas will acknowledge that, generally, the best stewards of our land and water resources are the primary producers, whose future prosperity depends on the continued vitality of those resources. Indeed, land-holders also largely demonstrate the ability to act as the best protectors of these resources from weeds, feral animals, pollutants and degradation.

I have been supportive of the integration of natural resource management in this state for some time. This view has been emphasised by excellent examples of integrated effort that have been initiated in particular regions of the state during periods when many people within existing structures were resisting the moves towards integration and cooperation. It is of particular relevance to stress that these regional examples were successful because, first, they were designed to match the features of the local region and, secondly, there was strong primary producer support for and participation in the model adopted.

To go back briefly in history, previous attempts to integrate the work of the various natural resource entities in this state have always met with resistance. The amalgamation of the vertebrate pest and pest plant boards by the Labor state government in the mid to late 1980s met with considerable resistance on behalf of many of those involved. The subsequent moves by the then Liberal agriculture minister (Hon. Dale Baker) to amalgamate soil conservation boards with animal and pest plant control boards in the mid 1990s were also resisted strongly. As a result, the proposed amalgamation did not proceed.

In the period from late 1999 until early 2001, the Statutory Authorities Review Committee conducted an inquiry into animal and plant control boards and soil conservation boards. The committee examined the relationships between these two categories of boards and their commissions and other groups that have a primary industry in the natural environment, with particular reference to the effectiveness and efficiency of operations of these bodies.

It is pertinent to mention the make-up of the Statutory Authorities Review Committee (otherwise known as SARC) during the course of the inquiry. Chaired by the Hon. Legh Davis, other members included the Hon. Julian Stefani, the late Hon. Trevor Crothers, the Hon. Carmel Zollo and myself. In mid-2000 the Hon. Mrs Zollo resigned upon her appointment as Opposition Whip and was replaced by the Hon. Bob Sneath. The committee quickly noted that in the period since the Hon. Dale Baker's amalgamation proposal there had been a significant change in the way natural resources were managed. These included the federal government's establishment of the Natural Heritage Trust, the establishment of landcare groups across South Australia, the creation of local action planning groups in the Murray-Darling Basin and the setting up of catchment water management boards in many areas of the state.

I was very pleased to have the opportunity to visit a number of areas of the state as part of the committee's inquiry. There were excellent examples of people involved in a range of natural resource groups working together very well. The Coorong, which has won a national award, is one of those areas. When three councils amalgamated a few years earlier, they took the opportunity to make sure that the soil board, the animal and plant board, Landcare and other groups all shared the same boundaries, and that obviously has been of great benefit to the people in that district council area. On Eyre Peninsula we saw the Eastern Eyre animal and plant board and the Eastern Eyre soil board equivalent wishing to amalgamate. Although it found a legislative impediment to that, we know of the great wish to work together.

The committee also witnessed the initiative, and cooperation featured in the work of other groups, including the South East natural resource consultative committee, the northern agricultural districts land management strategy, the Eyre Peninsula natural resource management group, the Mount Lofty Ranges integrated natural resource management group and the rangelands soil board executive committee. These groups have made progress towards integrating the management of natural resources in their areas, taking into account local considerations such as economic development, water management, land use planning issues and community involvement and participation. However, the committee also witnessed examples where there was little or no cooperation between soil and animal and plant boards. We heard of a demand that noxious weeds be removed from a sandy rise, with no consideration of the soil erosion that resulted.

I was alarmed at the evidence we received about the presiding member of a soil board who did not know who his opposite number was on the local animal and plant board. Another instance concerned a significant amount of work done preparing a regional soil strategy without any consultation with the animal and plant board in that area. Some parts of the state were ahead of others in the way in which they worked. There is no doubt, however, that the achievements of the 30 animal and plant control boards and 27 soil conservation boards in South Australia have been enhanced by the considerable involvement and contribution of volunteers. This contribution was well recognised in evidence received by the committee.

Volunteers in more remote areas of the state regularly travel great distances for meetings and are often not reimbursed for out of pocket expenses. The many other organisations involved with natural resource management in South Australia also rely heavily on volunteers, especially on volunteers with relevant expertise. The committee's inquiry suggested that the number of volunteers involved in environmental groups in South Australia was at least 10 000, based on anecdotal evidence from the then department of environment and heritage and the Department of Primary Industries and Resources.

The key recommendation of the inquiry was that soil conservation and animal and plant control boards should be amalgamated over a five-year period and that each amalgamated board should initially include all existing board members. However, the membership of the amalgamated boards should be rationalised over a two year period. The committee suggested that the amalgamated boards be known as land management boards. Of course, under that proposal the Animal and Plant Control Commission and the Soil

Conservation Council would need to be amalgamated and renamed the land management council.

The committee also agreed that, if land management boards were established, they would need to be adequately funded by the state government in order to build on the work of the soil boards and the animal and plant control boards. The committee also recommended that appropriate fees and expenses should be paid to members of those boards. The current situation is quite inconsistent and adds to the burden of the volunteers who make up those boards. In some cases the same people are on both boards in the local district.

The committee also recommended that the land management boards employ authorised officers to carry out works directed by the board. This follows the model currently used by the animal and plant boards, through their close relationship with local government. That is a system that has worked very well, because the authorised officers have the power to enforce the law to make people do the right thing. It is much easier for them than the soil boards, which do not have employees as such. They have very limited access to employees of Primary Industries and Resources SA. It is more difficult for a soil board chairman to tell his neighbour to lift his game in the way he is looking after his soils than it would be for an authorised officer. The committee also recommended that the relationship between land management boards and local government should be maintained and that local government should not be disadvantaged in any new funding arrangements for these boards. The committee also recommended that land management boards and catchment water management boards should be key players in integrated natural resource management groups and should work closely together to ensure a holist approach to natural management in South Australia.

It is relevant at this point to observe that some of the people who have expressed a desire for more integrated natural resource management did not support an immediate move to amalgamate animal and plant and soil boards with water catchment management authorities, such as is encompassed in the legislation before us. I recall that this view was quite strongly expressed by animal and plant board officers in the eastern border regions of the state. They had witnessed the merger of soil, animal and plant and water boards into single catchment authorities in Victoria by the former Kennett Liberal government. Their view, and one backed up by my own limited knowledge of the situation in the western districts and Wimmera region of Victoria, is that this resulted in a heightened focus on so-called trendy issues such as water and revegetation and a weakened emphasis on soils and animal and plant issues. An example of the reason for such concern is the great increase in fox numbers that has occurred in Victoria in recent years.

In returning to the SARC inquiry it is relevant to mention that the committee quite importantly suggested that integrated natural resource management groups should liaise strongly with regional development boards and local government. I strongly support that because, while regional development boards have an economic focus, they really do have a role to play along with local government in natural resource management issues. It is quite apparent that the current government's legislation has jumped well ahead of the SARC recommendations and the much less complex draft NRM bill proposed by the former government in 2001. As I said at the outset of this contribution, this bill has been improved by the opposition's amendments which were agreed to in another place. I also strongly support the further amendments which were not agreed to in the House of Assembly and which will be moved in this chamber by the Hon. Caroline Schaefer.

In closing, I emphasise my support for integrated natural resource management. Indeed, I welcome the vital role of groups such as the Murray Darling Basin Natural Resource Management Investment Strategy Group and the Murray Darling Association Environmental Foundation. However, I must stress the particular importance of two factors which must be taken into account if this integration process is to be successful. First, one size does not fit all. The ability of the widely varying regions of this state, including those in the peri-urban sector, to manage natural resources in a manner relevant to each particular region and sub-region should be paramount.

Secondly, as mentioned earlier, the importance of ensuring that land holders and primary producers continue to have a strong link to the future management of our natural resources should not be understated.

The Hon. G.E. GAGO: Today I would like to speak in support of the Natural Resource Management Bill, originally introduced in another place by the Minister for Environment and Conservation, the Hon. John Hill. I note that this bill was debated at length in another place, as it no doubt will be in this place as well, due to its complexity and magnitude. However, I will be brief with my comments and address just a couple of the key areas of this bill.

The overall impetus behind this bill is to reform the way that South Australia's natural resources are managed. A general lack of integration and coordination has characterised the way in which natural resource management projects have been administered and implemented in the past by different arms of government. One of the many ways this bill seeks to address this lack of coordination is the formation of a peak advisory NRM council and eight regions, each with a skills based regional NRM board. Subregional NRM boards will be formed to ensure that local communities can make contributions to the management of natural resources in their areas. This structure replaces the current system, where more than 70 boards separately manage issues relating to water, vegetation, conservation, soils, pests, plants and animals.

The significance of developing a more integrated and balanced approach to managing natural resources cannot be underestimated. Complementary management of natural resources ensures ecological sustainability. In turn, achieving ecological sustainability is essential to our society and economy. Our whole way of life relies on the productive capacity of our land and water resources.

I was interested in the remarks made by the member for Schubert in another place about the impact this bill might have on farmers. He asked minister Hill this question:

> Is this bill a mighty grab for power by radical environmentalists, conservationists and, worse, bureaucrats who have been pushing farmers and farming practices for years?

He went on to state that he believed this bill meant that 'the farmer's right to farm is under real threat'. The member for Schubert apparently fails to grasp the fact that, under this bill, economic, social and environmental concerns will be considered equally on their merits. One single objective will not take precedence over others.

Probably the most important principle underlying this bill was mentioned by minister Hill in one of his speeches, when he stated:

> Ecological sustainability is about economic activity being able to continue in a way that does not diminish the natural resources that economic activity relies on.

This bill recognises that the appropriate balancing of competing interests is fundamental to the successful management of our natural resources. This fact is reflected in the make-up of the proposed NRM council, which will consist of a representative from the SA Farmers Federation, the Local Government Association, the Conservation Council, Aboriginal communities and various individuals with natural resource qualifications.

The Minister for Environment and Conservation has spent over 18 months in a consultation process with the Local Government Association, the South Australian Farmers Federation and members of boards that manage water, pest, plant, animal and soil conservation issues to enable a mutual position on this bill to be reached. This process has culminated in a balanced policy that will deliver the best environmental, economic and social outcomes for South Australia. I note that the member for Davenport led the debate on this bill for the opposition in another place. From what the Hon. Iain Evans has said on record, I understand that the opposition's major objection to this bill is that it invests too much power and control in one minister. Those sentiments have been reflected in this place by a number of honourable members sitting opposite.

The member for Davenport argued that this bill would reduce the amount of intellectual rigour that would usually occur between various ministers who administer legislation that deals with natural resource management issues. However, I would like to point out that my colleague minister John Hill has reiterated throughout his debate that, if a dispute should arise over a natural resource issue, consultation with a range of ministers will occur through the cabinet process. The ministers who have responsibility for natural resource issues will participate in a frank exchange of opinions around the cabinet table, thereby guaranteeing that a thorough discussion of issues is sure to occur in relation to this bill.

The member for Davenport also disputed minister Hill's power to appoint members to the NRM Council, boards and regional subcommittees under this bill. The honourable member states:

> The minister totally controls the groups, the regions and the council. . . the minister can direct them all. It is totally controlled by the minister.

In fact, there are legitimate reasons why this bill grants the minister power to direct the proposed regional NRM boards and groups. The minister will be expected to answer questions in parliament regarding the running of the NRM boards and is responsible and accountable for the operation of these boards. Accordingly, the minister has the power to direct the NRM boards, because these boards are instruments of the government that operate inside the parameters of government policy. As I am sure all members would be aware, appointees to government boards and committees are nominated by the minister who is responsible for a particular act of parliament, and this appointment is subject to cabinet process. Therefore, the powers of direction granted to minister Hill under this bill are no different from those powers granted to every government minister who is responsible for administering an act of parliament and appointing members to a relevant board or committee under the act.

To allay the concerns of the opposition and the member for Chaffey, the Hon. John Hill agreed to an amendment that requires consultation to occur between the Minister for the Environment and Conservation and a group of designated ministers before nominations for members of the NRM Council and regional NRM boards are finalised. The broad cross-section of designated ministers to be consulted has responsibilities over natural resource management. They include the ministers for Regional Affairs, Tourism, Primary Industries, Mineral Resources, Urban or Regional Planning, Local Government, Aboriginal Affairs and Economic Development. This amendment addresses the opposition's major criticism that the powers of one individual minister to appoint members to the NRM Council and boards are too excessive. This amendment formalises the consultation process and ensures that the appointment process is open to a series of checks and balances.

In closing, I congratulate the government, and in particular minister Hill, for introducing this bill which has enormous potential to transform the haphazard past management practices of South Australia's natural resources. I am certain that this bill will ensure greater ecological sustainability so that our natural resource base is able to continue to provide all South Australians with a decent standard of living, to which we are accustomed.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

PITJANTJATJARA LAND RIGHTS (EXECUTIVE BOARD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 May. Page 1575.)

The Hon. KATE REYNOLDS: The Minister for Aboriginal Affairs and Reconciliation made a ministerial statement in this place on 16 February about the AP executive, and I will refer to that statement later. Last week this bill was introduced without consultation with AP or the AP executive, without reference to a number of important agreements, and without reference to the work of two parliamentary committees. It gives me no pleasure to stand here today and reveal the deception associated with proposed amendments to elections conducted under the existing Pitjantjatjara Land Rights Act, which I will refer to from here on in as PLRA, and to comment on how this might alter in the future.

I want to make it perfectly clear to members and readers of *Hansard* that I am not—as some members have suggested—naively supporting individuals who have a grievance with this or any former government, or even perhaps with former executive members. Our statements on this bill are based on a firm belief that, unless due process occurs—which includes respectful and timely consultation and negotiation—any changes proposed by this parliament to assist people on the lands will fail. My comments relate very much to the processes used by this government to bring amendments to the PLRA to this place for debate.

I would like to read part of a letter received by the Premier and by some honourable members just this morning. This is a letter from Makinti Minutjukur, whom I have never met or spoken with, but I think some important points are made. Makinti Minutjukur is the Municipal Services Officer for the Pukatja community and is also a member of the AP executive. The letter to the Premier reads:

When you visited the Lands at the end of April we were looking forward to meeting you after we received a fax at the Pukatja Community office telling us to expect you. I got Council members ready for a meeting with you and we had the kettle boiling for a cup of tea.

When you didn't arrive I drove across the creek to see where you were and found you outside the TAFE building in front of the newspaper cameras. Unfortunately I didn't see you again.

The letter goes on:

When I first heard that Bob Collins was going to work with us on the Lands for the government I was interested and hopeful. I heard that he is married to a Tiwi woman and I felt that he was a good choice for the job. He would know how to listen to Aboriginal people. I had never met him before.

Pukatja Community Council's meeting with Bob began three hours later than scheduled. Several people had re-arranged their day to be ready for the meeting, and some councillors, who had been waiting since 11 am, gave up and had gone away by the time he arrived. I introduced myself and Bob said, 'Oh hello, Makinti. I know who you are.' I felt shocked inside because he does not know me, and it didn't feel like a good start. Less than two minutes after he arrived—

and that was two minutes—

at the Community office he suddenly walked away and went over for an unscheduled visit to the arts centre. I was surprised; I felt it was rude. He came back half an hour later wearing one of Ernabella Arts' new bird beanies. This one looks like a galah.

The Community Council members and I all felt this was to be a very important and serious meeting. Now was a chance, after all the years of not being listened to, to talk straight to the Government. We expected that what we had to say would be listened to with respect, and would be taken seriously.

I started to feel uncomfortable because Bob kept making jokes and making people laugh. I thought that he seemed to be trying hard to make everyone feel as if he was just an ordinary person and nothing special; but he's not. Bob Collins' job is extraordinary and very special. Bob has been sent by the Government to work between Anangu and Government, so that together—

which is underlined—

we can solve the dreadful problems in Anangu life: where people are dying young from petrol and grog, where people are sad and angry and hitting each other, where people are dying early of kidney disease and diabetes because of bad diet, where nine, ten and often twenty or more people are living in a house just big enough for four, where children are not getting proper education because their families are in great difficulties, where often there is not enough to eat because people have no money, and no jobs to earn it.

Bob talked about the APY election. He talked at us.

'At' was underlined. The letter goes on:

He talked on and on at us about the election. He said that if an election were held straight away, then the COAG money that was promised to APY at the beginning of 2003 would be released in July this year. Someone asked, what if there is no election? Bob replied, no money. In disbelief that person asked the question again. Same answer.

I tried several times to ask something while Bob was talking at us about elections. He didn't stop, so at last I had to interrupt him to ask: 'Bob, what is more important, elections, or people's lives?' That stopped him for a minute. His answer was, 'Yes, Anangu lives are important,' then he seemed to turn around what he had been saying before about elections and said, 'but elections are your business. It's up to you.'

Clearly this indicates that, from the perspective of a community leader on the lands, this government has forgotten (or perhaps worse, never knew) how to go about timely and respectful discussion and negotiation of matters of great social importance, although I note that it spends a great deal of time and taxpayers' money consulting on matters of economic development when it suits. The Hon. Robert Lawson, in his second reading speech on this bill on 27 May, stated:

The government knew that what the executive was doing was wrong. Crown law advised the government to that effect.

He said:

. . . this executive has decided to arrogate to itself the power to extend its own term in defiance of the legislation and also not in accordance with the rights and interests of the people on the lands.

The opposition spokesman claims that the current executive is not validly elected. He said:

You would have thought that Mr Gary Lewis and the APY executive would have been coming to this parliament earlier this year saying, 'Listen, we'd like to have an election. We want you to correct this, because we want the money to flow. We don't want our imperfect appointments to be the impediment to the delivery of services.'

In his speech, the Hon. Robert Lawson made it abundantly clear that he is an ardent critic of the current executive and, one suspects, an ardent critic of any form of self-determination whether it be so over land, services or culture.

Let us return to the claims, counterclaims and now it appears happy partnership between the government and the opposition on this matter. I would like to go through some of the facts. It is agreed that the roadshow on constitutional change occurred in August and September 2002. It is agreed that all the communities and homelands, with the exception of two, supported the extension of the term of the office of the executive from one to three years. It is agreed that in September 2002 the APY executive agreed that a special general meeting would be held as soon as practicable to approve the necessary changes to the AP constitution. It is agreed that at the AGM on 7 November 2002 the current executive was elected. In fact, the minister in a statement on 16 February said:

The process used to elect these members was the first of its kind on the APY lands. It used a ward system that allowed each major community and their associated homelands the opportunity to vote a community rep to form part of the executive board. The electoral process has received broad support due to its strong community representative manner and the endorsement it received from the State Electoral Commission, which oversaw the process.

One could assume from this that the process was also endorsed or supported by the government. It is agreed that on 22 May 2003 the executive agreed in principle to extend the terms of office to three years subject to independent legal advice and ratification at a general meeting. It is agreed that at a general meeting at Umuwa on 23 July 2003 it was agreed to extend the term of the executive to three years.

Independent legal advice, that is, advice sought by the executive, supported this action. We have already heard from the opposition that it did not. We have not seen the crown law advice supposedly obtained by the government and we do not know what questions were asked or when. But it is not unusual for elected bodies to have a view that is different from the government's or the opposition's and it is not unusual for them to proceed based on their own legal advice and relying on independent, non-political arbiters, as we shall see. The executive's lawyers were instructed to make an application to the Office of Consumer and Business Affairs to amend the constitution as required by the act. They applied to amend rule 10(d) of the constitution to read:

A member of the executive board shall hold office from the date of his or her election until the annual general meeting of AP three years thereafter but shall then be eligible for re-election.

The change was to come into effect immediately, that is, the currently elected executive who had concluded the work begun by the previously elected executive was to hold office from three years from the date of their election, namely, 7 November 2002. The next AGM was to be held in December 2005.

I know that much of this is already on the public record but I want to emphasise the particular sequence of events in relation to the bill now before the council. The application to amend the constitution to give effect to the change to three-year terms was lodged on 15 October 2003 with the Office of Consumer and Business Affairs as is required by the Pitjantjatjara Land Rights Act. Section 14(1) of that act provides:

> Subject to this act, the proceedings of Anangu Pitjantjatjara and the administration of its affairs shall be governed by a constitution determined upon by Anangu Pitjantjatjara and approved by the Corporate Affairs Commission.

Section 14(3) provides:

> Anangu Pitjantjatjara may at any time propose an alteration to its approved constitution and, upon approval of the proposed alteration by the Corporate Affairs Commission, the alteration shall come into effect.

Section 14(4) provides:

> A constitution or alteration submitted for the approval of the Corporate Affairs Commission under this section shall be approved if it conforms with this act and the law of this state.

After finding that the amendment was consistent with both the act and the laws of the state, the amendment was approved by the Office of Consumer and Business Affairs and registered by it, giving the amendment immediate effect. Some time later, and I am sure the minister will be able to confirm the date, someone, apparently from his office, rang the Office of Consumer and Business Affairs and challenged its powers to approve such a change. When clarifying for myself last week the sequence of events, I was told that, when the question was raised by the minister's office, the Deputy Commissioner, Policy and Legal, sought crown law advice on the matter to determine whether or not OCBA had overstepped its powers.

I remind members that, unlike many people in this place, I am not a lawyer and perhaps therefore on occasion I am able to see the right and wrong of a situation which remains sadly invisible to fine legal minds. The crown law advice provided to the deputy commissioner, summarised in plain English, said that irrespective of whether or not OCBA had overstepped its powers to approve the amendment, the amendment had been approved and therefore stood. So when the Treasurer or the Premier or, even in a rare show of unity, the Hon. Mr Lawson, shadow spokesperson for Aboriginal affairs, say that the AP executive is illegal, not valid, not legitimate, not properly constituted—or any other way they choose to express it—some of us at least believe that they are wrong. We believe that they are playing games. They are undermining whatever progress may have been made towards 'just doing it right' towards 'working together'. Some members might cringe when they hear the names of these reports, these agreements, these supposed commitments to partnership, because they know that so many of these words are just empty rhetoric. I will give members another reason to know this.

In May 2003, with some fanfare, the Premier signed the agreement that I have just mentioned, known as 'Doing It Right' which, it claimed, was a policy framework for action, 'the state government's commitment to Aboriginal families and communities in South Australia'. The nine key principles included the second principle of reciprocity. The document states:

> The South Australian government's partnership relationship with the Aboriginal community is based on reciprocity, respect and openness.

The ninth principle of accountability states:

> The South Australian government's commitment to honesty and accountability in government is a commitment to all its citizens, including Aboriginal South Australians.

So the Democrats are going to help the government be accountable. We are going to ask it to account for and to explain the deception and flawed processes it is using to push through changes at this stage to the Pitjantjatjara Land Lights Act.

Recalling the sequence of events that I outlined earlier, we will return to December 2003, just a few months ago. Following criticism by the opposition and what the minister described in his ministerial statement as a small vocal minority, the AP executive sought, at the minister's suggestion, endorsement for the current AP executive members at an AGM held on 15 December 2003. I believe that a letter from the shadow minister for Aboriginal affairs, the Hon. Robert Lawson, was read to the meeting and I believe that that letter advised against endorsing the current executive.

This meeting ended, unsurprisingly, given the influence of various non-indigenous agitators and MPs, without a clear resolution but I am told that the majority of people present at the meeting indicated their support for the extension of the term of the current executive to three years. So I assume that, in recognition of all these expressions of support for extending the term to three years, the minister then commenced discussion with the AP executive about how to resolve the fact that some parties still refuse to accept the validity of the constitutional change, taking into account that current members had been elected, the requirements of the act and the fact that the amendment had been approved and registered with OCBA, and notwithstanding the need to maintain a culturally appropriate legal system for electing members of the executive.

So, the AP executive had, in effect, said just what the opposition spokesman wanted when he said that it should be saying to the minister, 'We want you to correct this because we want the money to flow. We don't want our imperfect appointments to be an impediment to the delivery of services.' The AP executive and the communities that it is accountable to were led to believe that the minister would propose a legislative change that would address these matters in order to maximise stability and minimise opportunity for politicking by external people or groups.

Meanwhile, of course, the Pitjantjatjara Land Rights Select Committee, of which I am not a member, was finalising its recommendations. This committee was established in mid 2002 to inquire into various matters, including future governance arrangements. I am not a member of that committee so I am not privy to its findings or recommendations, but I am sure that all honourable members expect it to make a number of recommendations about changes to the act in relation to the election of board members when it finally tables its report. In fact, comments made by the minister would indicate that the select committee is likely to recommend a full review of the act, which I am confident will receive support from all political parties and the AP.

The Aboriginal Lands Parliamentary Standing Committee, of which I am a member, is also attempting to wrap its collective head around a pile of existing reports and recommendations too big to climb over, and new evidence, as well as dealing with the reverberations caused by both the federal Liberal government's announcements about dismantling ATSIC and the Treasurer's reactions to damning but not new headlines about the deaths of young people on the lands.

On 1 March, just two weeks before those last memorable headlines in *The Advertiser* of 14 March, the Minister for Aboriginal Affairs and Reconciliation acted true to his word to the community leaders on the lands. Cabinet was provided with a briefing paper by the minister which outlined the sequence of events, much as I have done for members in this place who may not be familiar with the details. He noted that the legal advice provided to the current executive endorsed the right of the current executive to continue its terms of office for the full three years from the date of the original election in November 2002. Therefore (the cabinet document said), it was appropriate to require a new election to be held in late 2005. According to the cabinet document (in the minister's view):

> The current executive board has done a great deal of work and continues to be proactive to ensure priorities for Anangu are being considered by service providers and policy makers alike. Since signing a Statement of Intent with the government in 2003, its contribution to discussion and decision-making with APYLIICC—
>
> Tier 1—
>
> has provided the government with timely advice on such matters as the agreement of priorities through the Statement of Intent, the establishment of the Allocation Committee and the participation of Nganampa Health on APYLIICC.

Of course, that paragraph is very similar to what is in the ministerial statement delivered on 15 February. The minister recommended that a bill be drafted by parliamentary counsel fixing the term of office of the AP executive at three years and suggested making the amendment retrospective—that is, commencing on 7 November 2002 and expiring in November or December 2005—to ensure that the actions of the executive board from November 2002 are legally effective. The document provided to cabinet indicated that, following discussions with both ATSIC and ATSIS, it was the minister's belief that this amendment to the act would be acceptable to them.

So, on 1 March the current AP executive had the confidence of the minister; and the government's commitment to 'do it right' with respect and consultation by both parties, at least in this instance, was being kept. But, in case the opposition thought that the minister had not put a persuasive argument to cabinet, I can assure the opposition that the Premier and cabinet agreed to the proposal. I have in front of me the recommendation signed by the Premier on 1 March 2004. It recommends that cabinet approves the drafting of a bill to amend the Pitjantjatjara Land Rights Act 1981 with respect to the term of office for the APY executive board members from one year to a maximum of three years, pending the outcome of a full review of the act. Therefore, it is absolutely clear that the government, as at 1 March this year (less than four months ago), was determined to keep faith with the elected body and do what it could to ensure the existence of a stable and effective decision-making structure.

But on 14 March that all changed. For the past four months the legally elected body has been vilified, side-lined and ignored by the Rann Labor government and vilified by the opposition, yet the government has never accounted for this change of heart that occurred in just 13 days. We are now asking it to do so. If it was possible to amend the act to achieve a three year term on 1 March, why can it not be done now? On 22 March the chair of the AP land council wrote to the Minister for Aboriginal Affairs and Reconciliation. He stated:

> We do not believe there is any necessity to amend the Land Rights Act to affect self government of the APY lands in order to achieve urgent action on petrol sniffing and related human service issues. Indeed, it would be quicker and more effective if the urgent human service interventions the government has mentioned were introduced side by side with Anangu and that the amendments to the [Land Rights Act] were negotiated separately in a respectful manner.

Honourable members should not doubt that AP and the AP executive are not blind to the shortcomings of the existing act. At no point in my discussions with members of the executive, or with other people from the lands or other organisations who have worked with them, have I found any resistance to a review of the act or changes to the act, provided this is done in an inclusive and respectful manner and not (as the government has previously warned) imposed. In fact, their role would be much easier if there was separate legislative action to establish proper governance structures on the lands. The role of the AP executive is not to govern; it is to manage the lands of the traditional owners.

Members should try to imagine how our telephones, faxes, emails, letterboxes and diaries would have been on meltdown if the boundary changes to local councils (which were established under the local government structure) made in 1996 and 1997 and the subsequent changes to the Local Government Act had been forced, without any consultation. It was controversial enough—and I know, because I was a member of my local council at the time—because some very controversial changes were made but, without any consultation mechanisms, such wholesale change would not and could not have proceeded.

So, the AP executive believed that the government was supportive of a legislative change which would address the issue of its validity with as little disruption and opportunity for politically motivated agitation as possible. But, sadly, it appears that it will have something altogether different forced upon it. This is why the Australian Democrats believe the amendments to the act currently before this council should not proceed. They represent a poorly thought out knee-jerk response to a set of problems which have been inadequately and irresponsibly dealt with by successive governments. The Australian Democrats will not be part of legislative change which would have the proponents of the existing act, despite its many imperfections, howling with objections.

I remind members that the AP executive is the corporate body in which the lands are vested—that is, it is the landowning entity. Its functions are: to ascertain the wishes and opinions of traditional owners in relation to the management, use and control of the lands and to seek, where practicable, to give effect to those wishes and opinions; to protect the interests of traditional owners in relation to the management, use and control of the lands; to negotiate with persons desiring to use, occupy or gain access to any part of the lands; and to administer the lands. I continue to emphasise the term 'the lands'. The elected executive board of AP has the role of carrying out the resolutions of Anangu Pitjantjatjara. The executive board must 'act in conformity with the resolutions of Anangu Pitjantjatjara, and no act of the executive board done otherwise than in accordance with a resolution of Anangu Pitjantjatjara is binding on Anangu Pitjantjatjara'. The executive board of the AP council is not AP, so the executive board is not the people; it acts for and is accountable to the people.

The formal method by which this interaction occurs is through general meetings, and elections are part of the executive's accountability to the people. By including in the original legislation the AGM as the electing forum for the executive board, 23 years ago the parliament sought to

provide a method by which the traditional owners were clearly identified as the primary authorities and owners of the land, with the executive board accountable to them by the annual general meeting and other general meetings.

The act attempted to provide self-determination of Anangu Pitjantjatjara in relation to the management of their lands, but now the government is choosing to keep only the parts of the act it likes under the guise of increasing democracy on the lands—in reality, democracy for and by white fellows and not Anangu. The minister's explanation of the amendments is very clear and explicit. He seeks to remove the role of the annual general meeting in the election process by identifying township electorates for local government style elections conducted by the Electoral Commission at polling booths in each town (or in some towns) instead of by Anangu Pitjantjatjara at their annual general meeting. This raises a number of key procedural and practical issues which we will return to during the committee stage, but here is just a sample in relation to the flawed processes to date.

By removing the role of the AGM and elections, this diminishes the role and position of traditional owners in the decision making process and the accountability of the executive board to traditional owners. If passed, these amendments will reveal, to our great shame, that the South Australian parliament understands even less and has less respect for Anangu ways than it did 23 years ago, and further erosion of the authority of traditional owners will cause only further disorder and despair amongst the people on the lands.

These changes have not been shown to, discussed with or consulted on with Anangu, either through the executive or through the community councils. The new electoral boundaries have not been discussed with Anangu, so the Democrats want to know how they have been decided and by whom. We want to know what criteria will be used to identify eligible Pitjantjatjara electors by the Electoral Commission and whether these criteria and the associated electoral roles can be in place for use in an election in just eight weeks, or, according to the minister's second reading explanation last week, in four weeks.

I remind members that the Pitjantjatjara Land Rights Act is a land rights act and not a local government act. Mick Dodson's report on the AP executive commissioned by the Minister for Local Government, and I think provided in November 2002, points out:

> The present role of the AP is clear. It is primarily concerned with the protection of the rights and interests of the traditional owners regarding their lands.

Mick Dodson, like the Australian Democrats and the AP people with whom I have spoken, did not believe that it was ever intended 'to deliver a host of municipal and human services to the communities on the lands'. The delivery of these other services by people on the lands has the potential to place them in conflict from time to time with the interests of the traditional owners. He also pointed out the fact that AP and its corporate character is the holder of the grant in fee simple for the lands. Irrespective of any future discussion about how a structure based on the local government structure with which members are familiar could be developed to suit the location, culture and governance needs of the AP people, imposing such a structure at this stage would place a tension, if not a conflict of interest, between the roles of a local government/municipal land management/service delivery organisation and the traditional owners and their roles.

Grafting on of local government-like electoral processes for the executive board representation under the Pitjantjatjara Land Rights Act is probably inappropriate and certainly pre-emptive. Implementing these amendments seems to be a quick fix to an immediate problem the state government may have, or at least wants us to believe it has, with COAG and which, in our view, has been unfairly blamed on the AP executive. Without proper consideration of how best to meet the needs of AP as landowners, cultural custodians and citizens of South Australia entitled to a range of services and without embodying these roles in a sound legal base which gives Anangu a viable economic future will produce only more conflict and confusion about the rights and responsibilities of the AP, including the executive board, rather than reducing the confusion and disagreement over how and what the powers of AP are, how they should be exercised and by whom.

It is clear that the amendments have been drafted on the basis of a bipartisan agreement between the government and the opposition, without consultation with the AP, perhaps even without consultation with the responsible minister, and without regard to the recommendations of the Pitjantjatjara Land Rights Select Committee report or the views of the Aboriginal Lands Parliamentary Standing Committee. I refer to and place on record part of a letter sent last week to the Premier from Reverend Dr Murray Muirhead, a minister with UnitingCare Wesley Adelaide. He wrote:

> I have recently been appointed as the minister for UnitingCare Wesley Adelaide (formerly Adelaide Central Mission); a community services agency of the Uniting Church in Australia. For the past seven years I served as a Frontier Services Patrol Minister in outback S.A., based in Hawker. For the past decade I have worked closely with Aboriginal communities across the state, including communities in the Anangu Pitjantjatjara lands.
>
> Whilst I welcome the government's moves to validate all decisions made by the APY land council until the time of the next election, I am disturbed about your decision to force an election before the current council has served its three year term (November 2005) as this overturns the clear desire of Anangu communities as expressed at their special general meeting.
>
> Forcing an immediate election to resolve the current uncertainty rather than pursuing more constructive options that honour the intention of the Anangu communities will have at least three detrimental consequences. Firstly, it will be interpreted in the lands and the wider community as a vote of no confidence by government in the current APY executive. This is especially so in light of some of the less helpful public statements that have been made by members of the government and its servants in the past few months.
>
> Secondly, it will cause confusion in Anangu communities about why the government has seemingly 'acted against their best wishes' and will not allow sufficient time for people spread across the lands to understand the intricacies of the process and to make informed choices in the election. The confusion will be exacerbated by the very strong sense amongst Anangu that until very recently the government supported their moves towards three year terms and their desire that the current executive serve a three year term.
>
> Thirdly, it will further destabilise communities at a time when they can least afford it.
>
> There are some positive changes that appear to be flowing from the government's increased attention to the lands and this is to be welcomed. It would be tragic if the positive progress and cooperation that is emerging is undermined by a 'falling out' between the government and the majority of Anangu people who support the current executive.
>
> For this reason I urge you to negotiate a more appropriate time frame for a future election with Anangu leaders that would allow sufficient time for the communities to understand why an election is needed and to re-engage with the 'Working Together' process that was beginning to bear fruit.
>
> There are more positive and less disruptive ways than forcing an immediate election to resolve the current uncertainty about the validity of the executive.
>
> It is vitally important that the government and other service providers do not undermine Pitjantjatjara leaders who clearly have the support of their communities. Forcing immediate elections on

communities that are already struggling to survive is not the way to go. Sitting down and negotiating an agreement with Anangu about a process that will empower rather than disempower them is essential.

It is for these reasons that the Australian Democrats express opposition to the amendments proposed in this bill. Even if we were to set aside our view that legislative change is not required for the government to publicly express its acceptance of the legal validity of the current AP executive, in our view it is not appropriate that debate on the bill should proceed prior to consideration by the parliament of the select committee's report; nor is it appropriate, in our view, that passage of the bill should proceed prior to the standing committee's being given an opportunity to discuss the proposed amendments with Anangu Pitjantjatjara when it visits the AP lands next week or prior to its being given an opportunity to make formal recommendations to the minister.

As an aside, in failing to consult with both these committees and in failing to inform Bob Collins of their existence at the time of his appointment—or perhaps even at all—the government has displayed enormous contempt for the parliament and its processes. Lastly, it is not appropriate that any legislative change proceeds until such time as the government refreshes its memory about the commitments made in the Working Together document which was signed in early 2002 and the Doing It Right document which was signed one year later, in May 2003; exactly 12 months ago. If the legislation is pushed through now, it shows that the government will work together with the opposition, but not the AP, and that doing it right is—at this stage, anyway—not on the Rann government's agenda.

The Australian Democrats urge all honourable members to give full and honest consideration to the issues that we have raised before proceeding down a path that appears destined to cause only more problems and to further erode relationships between indigenous people and the South Australian parliament. I indicate that we will be raising a number of issues relating to the specific amendments during the committee stage of the debate.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I would first like to thank all honourable members for their contributions. This bill has caused a lot of interest and angst, particularly amongst Anangu and supporters of Anangu who have taken a keen interest in what is happening on the lands. The bill has been introduced as a result of concerns about the validity of the executive board that was elected in November 2002 and, essentially, provides for fresh elections of the executive board within eight weeks of this bill's coming into force. I point out that the report referred to four weeks: however, that was a typographical error. That was the original intention, I think, and it was extended through negotiations because of an appreciation that it would be very difficult to get all the planets to align within four weeks. The eight weeks is in the bill, and that is stated in the explanation of the clauses.

I also thank the opposition for its indicated support and its desire to see this bill progress through parliament efficiently, so that when we have finalised the legislative process we can concentrate on the delivery of service rather than the election, and we can all move forward. The intention is that there will not be any organised opposition on the lands to any aspects of the service delivery programs and that there will be consensus on the way to proceed with respect to the governance of the lands (which is a vital and important question).

We hope that the representative model, which we have developed through broad consultation over many years, is implemented and accepted as at least a first stage model for the implementation of the separation of powers between land management (as the honourable member has mentioned) and a form of governance that allows the Anangu to engage the state and commonwealth governments in a responsible way; that is, that we have responsibilities for training and capacity building within the Anangu Pitjantjatjara lands to allow representatives of Anangu to engage us to enable those support structures that are required cross-agency to improve the lives of the people who live in the remote areas of the north-west of the state.

What has happened since the last election, and the advice that was sought by Anangu to see whether they could verify or validate their election process, or their bypassing of the annual general meeting by validating a process that allowed for continued governance, was a question that was debated within government, and it was debated within Anangu in particular. Not everyone agreed with it. I had informally approached members of the opposition to see whether formularising and formalising a different procedure through a review process, while indicating that the priority was service delivery, was an accepted way to proceed in a consensus approach.

There were people in opposition who opposed that proposition (and they had a right to do so), because it was their view that the Anangu Pitjantjatjara elections of 2003 had not legitimised the current executive and that the form of legitimisation that was taken did not fall within what was regarded as a reasonable process to elect the democratic body that represented a wide range of interests. That evolved out of processes and activities that occurred on the lands. Whether one agrees or disagrees with the opponents of the executive, they had a right to raise objections and uncertainties about the legitimacy of the current executive on the basis that they felt aggrieved by the process. A whole range of issues was associated with petitions being taken around. I am not quite sure who sponsored, fostered and encouraged those petitions; nevertheless, they were taken around. That is how petitions evolve: people will seek the views and opinions of those who they believe will come down on their side and, therefore, they create methods of showing their dissatisfaction.

We cannot afford to have continuing separation of views and opinions on the lands. It is okay in any democracy to have views and opinions that are healthy, to have debates and to have people position themselves to go on bodies elect to try to put their viewpoints publicly. But we cannot tolerate in the lands anyone who threatens violence or who is in a position to corrupt others in relation to how an election is run.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The potential is there. The differences—

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: I understand that. I am saying that we want to achieve the best results we can in relation to mustering the changes we require at governance level. One of the things about which this government was concerned was that the delivery of human services, in particular, and infrastructure were being held up by the lack of will, in some cases, and the inability of our governance to change. We were lecturing to the APY executive that it needed a change but, in fact, a lot of the hold-ups for service delivery were due to our own bureaucracy's inability to

deliver in such a remote area. So, in the engagement process, we had to try to eliminate any weakening of governance on the lands by disaffected groups that had the ability to intimidate or to weaken the objectivity of people in joining with our governance to get the best results. That was the unfortunate position in which we found ourselves.

I became involved in the history of the APY executive and the governance of the lands at a personal level whilst in opposition when I visited the lands for the first time and was trying to get a handle on just how governance worked. I found that there was a body politic and a governance body that was situated in Alice Springs that was called the Pitjantjatjara Council.

The Pitjantjatjara Council is made up of not only Pitjantjatjara people but Yankunytjatjara and Ngaanyatjarra people, but in the main Pitjantjatjara and Yankunytjatjara. They had their own lawyers and anthropologists, their own service providers, AP services, a large workshop, and Pitjantjatjara services as an infrastructure support body for the lands. Many of the Pitjantjatjara/Yankunytjatjara/Ngaanyatjarra people who travelled from the Pitjantjatjara lands to Alice Springs, the closest large metropolitan area for them, for health and other services, used the officers and infrastructure there to assist them to go about their business. They would use telephones and appointment areas within the buildings and seek advice not only on matters associated with the constitution and legislation that covered them but on all sorts of matters in relation to civil matters. They would get blankets, finance and support if they were caught without any, and the organisational structure for the Pitjantjatjara Council grew into a service provider body as well as a body politic.

That did not suit a lot of people, as many people believed that the advice that came from lawyers and anthropologists in the Pitjantjatjara Council was divisive and was holding up progress and, because it had a body politic and was receiving advice that was not lining up with the advice that many other people thought they should have been getting, the Pitjantjatjara Council became the focus of everybody's attention and it had to be dismantled because it was on the wrong side of the border. Chris Marshall's brief under the previous government was to shift the focus of attention for all of the service delivery and the anthropological and legal advice on the South Australian border into the Pitjantjatjara lands and reside in Umuwa. It did not make good sense to dismantle a functioning body that provided services in an area where there are so few services.

The role Chris Marshall played in many cases was constructive. He tried, on the South Australian side of the border, to set up a body politic and a structure that was to look after the Pitjantjatjara/Yankunytjatjara/Ngaanyatjarra people on the South Australian border, when in fact the elder's view of the world was not as narrow as Chris Marshall's. Their view—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: His brief was narrow.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, the people he is representing do not understand and nor do they take borders into account. We had borders being defined by legislation that bore no resemblance to the requirements of the people within the area. The Anangu Pitjantjatjara elders reside in Western Australia, the Northern Territory and in South Australia. To get their views and opinions on how the lands and services should be managed, if you are to have a democracy that works, you have to have a system of contacts so all those views and opinions could be taken into account.

From the criticism I was hearing from many of the traditional owners, it was not just the competing of voices of the lawyers and anthropologists but also that the operational viewpoints that a few people were putting into place were not going to work because it did not include the traditional owners' voices. The elected members did not necessarily have to be traditional owners and certainly the non-Aboriginal CEOs of the communities were in very strong voice connected to Chris Marshall's plan.

When we came to government we set up very quickly a negotiating process that tried to modify the Chris Marshall plan but not throw away all of the recommendations that had come through consultation. Part of the consultation process was to try to identify a new form of governance based on elected representatives in the communities. We held quite a few meetings in my office in Pirie Street with the traditional owners and elected representatives of the communities. Chris Marshall attended some of those meetings in Adelaide, in Alice Springs and on the lands, and we tried to draw a consensus on how to proceed. That was not possible because the brief given to Chris Marshall by the previous government was, as I said earlier, too narrow.

The Pitjantjatjara Council suffered on the basis of funding streams from ATSIC. At that time ATSIS had not been formed and the funders—in the main the commonwealth and, in part, the state—used the funding streams to put pressure on the bodies politic to try to get a program that suited the needs and requirements of the governance of the day. That was at both a commonwealth and state level. We tried to get a more cooperative approach to how change was to take place and to incorporate all of those traditional owners' views who felt they had a role to play.

All three major groupings—the Pitjantjatjara, the Yankunytjatjara and the Ngaanyatjarra—had to take into account the women's view, which had been left out. There was no provision for women on the councils—Pit services or the other elected bodies—or elected arms. The APY was set up especially for women, and Nganampa health certainly had representation by women, but the bodies politic met with women but did not include them within their forums. It was important to include women to make sure their views were heard.

At many of the meetings I attended the women would meet with me after we had met with the Pitjantjatjara Council or the APY and try to put a view to me to get their views carried back to those forums. The Marshall election plan had elected two women from the communities at the first election, but it appeared that there was more room for participation by women to have their voices heard. They were starting to have their voices heard through community structures but not at the peak body.

There were a number of reasons why there needed to be changes to the bodies politic. We certainly did not want to see the Pitjantjatjara Council dismantled to a point where it became ineffective and unable to service the APY council. We wanted to see a sharing of services, if possible, between the Northern Territory and South Australia and to share not only the infrastructure services—power, water and road maintenance—but to have a structure where human services and legal services were shared. Those meetings and those efforts by a wide range of bureaucrats go unheralded, because the results that they got were done through respectful

negotiations to the APY, and we did come away with a lot of negotiated outcomes that I think need to be placed on record.

A lot of work and a lot of miles have been done by a lot of people to get that consensus that was drawn out of all of those difficult and confrontational times. I must say that the confrontational positions at some of the meetings I attended were extreme although, at the end of each meeting, the opponents or the people who lost each particular election would disappear and would emerge at a later date to try to win back their positions within government. There did not appear to be a process where you could incorporate a consensus between the parties, because they appeared to have such varied differences that you could not get a consensus formed by an informal PR.

The process we have settled on came about when information was given to us as a government that the whole process, particularly in mental health within the communities, appeared to be breaking down and there were five or six attempted suicides within a particular week. That provoked a response from government to say that the patience that had been shown over the previous two years had to be overtaken by a government decision to change the way in which we were operating. We could not expect members of the opposition—who had indicated they were not happy with the way in which the executive had been formed—to accept the changes that were made to the executive in the way that they were made and to extend the term, even though I think the opposition's position in relation to a three-year term stands. I am not quite sure whether that has been given formally but, if we are able to get these legislative changes through to bring about an election within eight weeks of this bill being proclaimed, I am sure that the period of the 12 months after the legislation's being enacted for the review process will become important, whereby as a parliament we have drawn a consensus on a way to proceed in relation to how that governance actually works.

It should not weaken APY's ability to determine on their own behalf their own issues in relation to human services, infrastructure priorities and matters of administration. It should not weaken their resolve and ability to do that. It should create more of a climate that should exist where we as a government in Adelaide are able to engage with APY and Umawa in such a way that all interested parties have the confidence that, out of those discussions, there will be a consensus on the lands that enables the distribution of human services and benefits to communities that will be done in an even-handed way and that the benefits should flow through in education, health and housing infrastructure without fear or favour.

At the same time, we also have to engage the private sector in those areas where employment opportunities can be gained. I think if we have a form of governance that can engage not only our governments but also mining companies, tourist operators, stores policy, programs—

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: We are saying that it will clear the obstructions that are being laid at a political level from those people who oppose the position as it stands at the moment. Cabinet made the observation that it would be difficult to get a lot of the problems sorted out on the basis that the previous administration—the Chris Marshall administration—operated basically in a political vacuum. A lot of politics was being played out in the APY lands, but very few changes were being made down here in Adelaide. We now need changes at both ends so that the engagement process is able to be set up whereby the bureaucrats in Adelaide understand how human services have to be delivered in the lands and the remote regions. We must have housing available for professional people to be able to live there—

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: Those people who are vehemently opposed to the election process might put down their glass and imagine that, if the election process goes through, the people who will be elected under a democratic process will not only have full confidence of the APY but also have the full confidence of people here in metropolitan Adelaide, or where the parliament resides.

One of the major problems that APY have is that the remoteness has not brought about greater understanding of the levels of difficulty that they operate under and the levels of difficulty that they have in not just engaging with us in terms of our governance in Adelaide but also how to engage to get human services delivery in particular onto the lands and in a way that every other community in South Australia expects. I am confident that this can occur if we can get the confidence of the APY, as I think to some extent we have lost the confidence of the APY through the processes we have gone through. There have been differences of views and opinions within their own governance, and they should understand that, because they have differences of opinions and views within their own governance.

I think if we can get the election out of the way and if the APY will recognise those people who are working for them on behalf of their community—come out, endorse and vote for them; and set up the scene for the review process, where those same leaders within those communities will be sitting around the table with governance and with Bob Collins (if he is going to be involved in the setting up of the new process)—then we can get the recommendations set for whatever the next stages of development are, which will be—

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: The standing committee can determine a role of its own volition. It can make a recommendation to involve itself or put forward recommendations, and it can have a look at a form of local governance. The standing committee's role and function is a function of itself.

I am confident that, as long as we do not dwell on the past in relation to what the election result produces and the election result is fair and equitable, it will produce the result that APY want, and certainly enough attention has been focused on it for people to make sure that they vote within their communities. So, just to sum up, I also had a copy of Makinti's letter. I do know Makinti; I have a lot of respect for Makinti as an Aboriginal woman who is quite gifted as an artist, and she is also a very hard working community worker who works on behalf of her community and into the APY executive. As another part of her letter, she has very strong views on penalties that should apply to grog running, drug running and general misbehaviour.

There are many other people like Makinti, and I would hope that the Makintis of the lands will shine through when the new executive is determined and that the values that those people at community level have are the values that shine through and above those that are part of the grog running, the drug running and the general disorder that has come out of many of the communities. I hope that there will be behavioural changes when a new leadership program does emerge out of the review process.

I am confident that if we can capture all the energy of those people in metropolitan Adelaide who want to assist Anangu to prosper, and if we are able to transfer that enthusiasm over to Anangu, then I am sure that we will be able to come away with a very strong structure that puts together a program of human services infrastructure and administrative change that makes it a lot better—not just for AP, but to use it as a model for Yalata and Coober Pedy which are crying out for support and assistance as well. And also for other places in the state, where differences of views and opinions have prevented good governance and good service delivery.

The other question the honourable member asked was about boundaries. The determination of an eligible person and the electoral process came out of the rolling thunder which was a combination of Chris Marshall's plan, some of the negotiations which we had carried out on the ground at a particular time and, as I said, examining models. So, it is a combination of previous discussions and negotiations, but they have been widely canvassed within communities. It is a matter for us to get the legislation in place for the election, and then the review process will go about further refining the governance question and how we proceed.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: The review process has been a part of our plan in relation to how we proceed after the election.

Bill read a second time.

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 6 May. Page 1508.)

The Hon. T.J. STEPHENS: I rise to speak in support of the Supply Bill and in doing so I would like, as others from these benches have done, to make a few points regarding the overall approach to economic management that this government has exhibited to date. Others have made the point that supply bills allow for the payment of our public servants and hence for the continued operation of the public sector itself. I hope to add to the debate with regard to the state of the public sector in relation to the wider economy.

It is no secret that the Treasurer, Mr Foley, has been trying his best when it comes to beggaring the average home owner in South Australia, especially in the past 12 months. During the past few years there has been an explosion in the value of property in Adelaide and all around the country. This is a wonderful thing for many people—traditionally the family home represents the single largest asset for these people and so the large appreciation in the value of their largest asset is, I would think, very welcome. Naturally, the flip side of this is that there are considerable difficulties buying a home for the first time when prices are so high. In my experience, people looking for their first home have a young family and are not typically earning a huge amount of income. They try to buy a home when they are young so that they can pay it off and, hopefully, build for the future with a decent asset base.

So what does this have to do with the government and this Supply Bill? The fact is that this government could make the lives of many South Australian families much easier by making a substantial cut to duties on property, especially for first home buyers. I will use the figures that the member for Davenport generated to illustrate this point to members of this chamber. The median house price in metropolitan Adelaide has risen by $114 000 since March 2000. This has meant that the government has sucked more monies from the pockets of families than ever before. A couple of weeks ago *The Advertiser* reported that the government has had a 30.6 per cent increase in stamp duty revenue in the past couple of years and has an extra $133.4 million more than at the same time last year.

Fees payable on the average home now reach up to $23 000. There are some assistance schemes but they really do not make as much difference as they did as the original median price on which the assistance was based has nearly doubled. South Australia will likely become the state with the worst stamp duty rebates in the country after the Western Australian budget, and given that the government has set a population target I fail to see how this sort of competitiveness will attract more people to South Australia.

This is symptomatic of this government. It often has conflicting goals. For example, it wants to triple exports but it has not provided for any new infrastructure for the economy to expand into. It is supposedly tough on law and order but has to be dragged kicking and screaming to put on any additional police officers. I am looking forward to the day when we have those extra 200 police officers that the Treasurer has trumpeted, but I am extremely sceptical as to when that will occur.

The budgetary situation is similar. This government, as all governments do, depends on a strong economy to build upon its revenues, these automatic stabilisers helping to ensure that there is continued growth in the economy. The effect is that in periods when growth is slowing revenue from taxes decreases. This government, though, seems intent on taking as much as possible out of the economy regardless of its position in the economic cycle. It has introduced numerous new taxes to complement the old ones, and the old ones have continued to grow despite the fact that there has been a downward trend in employment for some time now, especially amongst women.

The leader in the other place rightly emphasised the difference between economic management and budget management. It is true that they are linked, but they are not the same thing. Economic management requires prudent spending and giving money back to sectors of the economy to maintain a balance over the course of the economic cycle. This Treasurer often cries that he has to fund the operations of the government and cannot afford tax cuts or new spending projects, or it is his reason for introducing new taxes. He often claims that the opposition has little credibility in this area, but we know that this is not true.

The opposition, when last in office, was handed an economy that was crippled almost beyond repair. In fact, it was beyond the capabilities of many of those now in senior positions on the government benches, including the current Premier, to manage the economy or the budget. Both were a mess when they were handed to us. The fact is that within eight years under the stewardship of several people, including the Hon. Rob Lucas, we managed to return the economy to growth, have employment trending upwards, and have the budget back in surplus. South Australia recovered from what would probably have been a case for IMF intervention if South Australia had been a country unto itself. Under the Liberal government, because we understood the difference between budget and economy, South Australia bounced back, and bounced back hard.

The PRESIDENT: The honourable member is getting very close to debating the budget. I am sure that he is aware

of his responsibilities with respect to the Supply Bill. We are talking about funding the Public Service not debating the different philosophies of political parties. I am sure that the honourable member will take that into consideration.

The Hon. T.J. STEPHENS: I will, Mr President. I acknowledge the work that our public servants do and how important this bill is in funding them. Mr Foley believes that, just as long as he can run a surplus budget, everything will be all right. It is dawning on him the difficulty of ruling out privatisation and using the private sector for infrastructure provision as a funding mechanism, thereby allowing for money for supply. Mr Foley can adequately cover his recurrent spending on some minor capital works, but the type of work required for the next great expansion of the economy has not even been considered, let alone budgeted for. Imagine trying to provide for all these things while having record interest repayments on record government debt. That was the task faced by the Liberal government, yet we managed it.

The PRESIDENT: The honourable member ought to start winding up his contribution.

The Hon. T.J. STEPHENS: I am nearly there, Mr President. Under this government, many large businesses such as Mobil and Mitsubishi have left or undertaken major restructuring. Why is that? Under the great economic stresses of the early 1990s, they managed to survive. Yet at a time when the Treasurer says things are going so well, major companies are relocating and disturbing employment trends are emerging. I sincerely hope that the government takes heed of the warnings that the opposition is providing and the business community is signalling. I support the bill.

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

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 1434.)

The Hon. R.D. LAWSON: In introducing this bill, the Attorney-General claimed that it fulfilled the Labor Party's election promise to 'double the penalties for assault, robbery or fraud where the victim is 60 or older or has a disability or is vulnerable'. The Attorney further said:

> This bill carries out these policies using the approach adopted by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General.

However, this bill does more than Labor's policy contemplated. It highlights the shallow rhetoric and simplistic prescriptions of this government's statements on these issues. Labor's policy has been partially implemented but it is buried in a complex and highly complicated new criminal law regime. Given this government's antipathy towards lawyers, it is ironic that the bill will provide more room for argument, more complications, more appeals and more income for lawyers. This bill is a gilt-edged invitation to a lawyers' picnic. More importantly, the cost of running criminal trials, certainly in the short term, will be increased and the certainty of gaining convictions will be undermined. That said, the Liberal opposition will support the bill if we can be satisfied that, in the longer term, there will be benefits in adopting the partial codification proposed by the Model Criminal Code Officers Committee.

During the course of this debate I will be posing a number of questions to seek clarification from the government on important matters of principle, which we seek to have put on the public record for the benefit of the Legislative Council. The bill does four things. First, it redefines 13 separate offences in the Criminal Law Consolidation Act by creating five new offences of causing harm. There are five degrees of causing harm: causing serious harm with intent; causing serious harm recklessly; causing harm intentionally; causing harm recklessly; and most controversially, causing serious harm by criminal negligence. I will be pursuing with the minister and putting on the record some questions about the proposed new offence of causing harm by criminal negligence, because the second reading report and the detailed explanation of clauses is strangely silent on this important topic.

Secondly, the bill establishes a new penalty structure for all offences against the person, that is, the five newly named causing harm offences and the other 16 offences against the person already in the Criminal Law Consolidation Act. Those offences range from rape to robbery and include two rather anomalous offences that are not against the person, namely, deception and dishonest dealings. Each offence will have two parts: a basic offence with a penalty that is the same as the existing penalty, and an aggravated offence with a higher penalty. These penalties are conveniently set out in table 3, which was incorporated in *Hansard*.

Thirdly, the bill reconstructs the offences of assault and kidnapping in a way that is consistent with the new causing harm offences as well as the new aggravated offence structure. It will repeal the Kidnapping Act of 1960 and incorporate the kidnapping offence in the Criminal Law Consolidation Act where it should be. I mention at this stage that in the new kidnapping offence, proposed section 39 includes not only traditional kidnapping, namely, the taking of a person with the intention of holding him or her to ransom or as a hostage, with the lesser offence but also the serious offence of wrongfully taking a child out of the jurisdiction. Taking a child out of the jurisdiction is a very serious offence, as is reflected in the maximum penalty of 15 years for the basic offence and 19 years for an aggravated offence.

However, the opposition does not believe that taking the child out of the jurisdiction should necessarily be regarded as kidnapping. We are all aware of cases where, contrary to orders of the Family Court and whatever, someone might take a child, for example, to Mildura or overstay a custody, access or contact visit, but to call such an offence, serious as it might be, kidnapping is really to undermine the seriousness of traditional kidnapping, which is undoubtedly one of the most heinous crimes in our criminal calendar and for which there can never be any justification—namely, taking a person, often a child, for the purpose of ransom. In the committee stage, I will be moving amendments to ensure that the appropriate terminology is used in that area. I gather from what occurred in the assembly, that the government is minded to accept this proposal.

The bill will amend the Summary Offences Act in relation to the obstruction and disturbing of rituals like weddings and funerals. Presently the disturbance to those rituals is only prescribed if they are part of a religious service. The bill will extend this to non-religious or secular rituals, and the Liberal Party does not have any objection to that amendment.

I turn now to the first of the four separate parts of the bill—aggravated offences. Offences against the person will be divided into basic offences with the same maximum

penalty as present and aggravated offences, and the penalties for those aggravated offences will be approximately 30 per cent higher. The aggravating circumstances are contained in new section 5AA of the Criminal Law Consolidation Act. They are:

(a) using torture;
(b) having an offensive weapon;
(c) knowing the victim to be acting in the capacity of a police officer or prison officer or other law enforcement officer, or committing the offence in retribution for something done by the victim in that capacity;
(d) trying to deter or prevent someone taking part in legal proceedings or in retaliation for their so doing;
(e) knowing the victim to be under the age of 12 years;
(f) knowing the age of the victim to be over the age of 60 years;
(g) committing the offence where the victim is a family member;
(h) committing the offence in company with another person or persons;
(i) abusing a position of authority or trust;
(j) knowing the victim to be in a position of particular vulnerability because of physical or mental disability;
(k) (i) knowing the victim to be in a position of particular vulnerability at the time of the offence because of the nature of his or her occupation or employment;
(ii) knowing that the victim was, at the time of the offence, engaged in a prescribed occupation or employment; and
(l) acting in breach of an injunction or court order relevant to the offending conduct.

Generally speaking, we agree with the aggravating indicia. One way of meeting the Labor Party's policy objections would have been to amend the Criminal Law Sentencing Act. By that means the sentencing regime, rather than the maximum penalty regime, could have been adjusted by requiring courts to impose higher penalties where aggravating circumstances were found to exist. Of course, as all members will know, tribunals already take into account aggravating circumstances during the ordinary sentencing process. That is something tribunals are required to do, just as they are required to take into account mitigating circumstances.

There is a good deal of scepticism in the community about maximum penalties. Everyone knows that very few criminals are sentenced to the maximum penalty, apart from the mandatory sentence of life imprisonment, but, once again, everyone knows that very few criminals serve out that term of imprisonment. I ask the minister to place on the record, if the government has the information, the number of occasions in the last five years in South Australia where any court has imposed the maximum penalty for a criminal offence (and I am not here speaking of regulatory offences, fines under the Fisheries Act or speeding penalties or the like: I am talking about criminal offences for which a term of imprisonment has been implied). How often has the maximum penalty been imposed? I would be very surprised if it is any in the thousands of sentences that have been imposed. However, the government has chosen not to use the maximum penalty in the sentencing regime but, rather, to change the offences themselves, and we do not quibble with that methodology.

There is a number of problem areas in the circumstances of aggravation. First, subparagraphs (e) and (f) contain arbitrary age limits so that it is an aggravating factor if the victim is known to be under 12 years, or over 60 years for older people. The stipulation of a particular age can be criticised because it is inflexible. Why is it more serious to assault a child aged 11 years and 11 months than to assault a child aged 12 years and one month? Why should it be 12 years and not 13 or 11: and likewise with 60 years? There was a time when people over the age of 60 years might have been considered old, elderly or frail, but that is not so now. Many people aged 60 years and over are very active, and some of them even sit in this chamber. However, we do accept that the stipulation of age rather than criteria of vulnerability is inevitable.

We accept that already there are age limits in the criminal law such as the age of consent and the age at which children may give evidence, etc. There are similar arbitrary age stipulations in many other areas of the law, for example, in relation to contractual capacity, qualifications to vote, eligibility to be called up for military service, eligibility for pensions and the like. So, it is a relatively common occurrence for legislation to stipulate arbitrary ages.

But the same subclauses raise another issue. In each case, it is an aggravated offence to assault a victim whom the offender knows—and the word is 'knows'—to be under or over a particular age. In other words, it would be necessary for the prosecution to prove actual knowledge on the part of the offender. There is a provision in the bill which to some extent ameliorates this but, by and large, the prosecution will have to establish that knowledge. Subsection (2) of proposed section 5AA provides that a person is taken to have known a particular fact if the person, knowing of the possibility that it is true, is reckless as to whether or not it is true. That is clearly intended to take account of the fact that if the victim of an assault or other crime appears to be under the age of 12 years or over the age of 60 years and the perpetrator of the offence is recklessly indifferent, he or she will be taken to have been aware of the fact.

I ask the minister to put on the record whether there are any other offences in the criminal calendar under which it is necessary for the prosecution to prove that the accused was aware of the age of the victim. Cases such as unlawful sexual intercourse, for example, are not predicated upon any state of knowledge of the perpetrator. If the victim is a person under the age of consent the offence is established. The same issues arise in relation to a number of the other indicia of aggravation, namely, the requirement for knowledge—for example, the case of aggravated offences where the victim is in a particular occupation of vulnerability. Once again, the knowledge must be proved.

If the government was really as interested in victims as it pretends to be, it would have removed the element of knowledge and imposed strict liability on offenders. In other words, if you attack a child without knowing its age, you run the risk that it may be under 12 years and you will be exposed to the possibility of a higher penalty. Similarly, if you snatch a handbag from a woman in a shopping centre, you run the risk that the person, notwithstanding appearances, might be over the age of 60 years and you will be committing an aggravated offence.

The Hon. Ian Gilfillan: Doesn't it have to be shown that a person is over 60?

The Hon. R.D. LAWSON: It does under this bill, yes, but my point is that if the government was really serious about protecting anybody over the age of 60 we would not have a requirement that the perpetrator of the offence has any

knowledge. We would be looking at the status and age of the victim, not the state of mind of the offender. Subsection (k)(ii) in proposed section—

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: Perhaps a tattoo on the forehead might be a solution. The council should note that subsection (k)(i) of proposed section 5AA refers to persons engaged in a prescribed occupation, and that would be an aggravating factor. The second reading speech gives the example of a prescribed occupation such as a sheriff's officer. We on this side would prefer to see these offices or occupations defined in legislation.

It is not good policy to have the criminal law extended by regulations. We already have in the proposed section references to police officers, prison officers and other law enforcement officers. If it is deemed that sheriff officers should be included, they should be in the legislation. What is clearly envisaged by this government (which is very fond of grandstanding the law and order field) is that when some person is attacked—be it a nurse at an emergency department, a service station attendant or a check-out operator at a service station or supermarket—and there is some great public outcry, the Premier will say, as he usually does, 'I make no apology for being tough. We will now pass a regulation that kindergarten attendants are now a prescribed occupation and this will be aggravated offence.' We believe that the indicia—

The Hon. Ian Gilfillan interjecting:

The Hon. R.D. LAWSON: Members of the opposition but more likely members of the Australian Democrats.

The Hon. Ian Gilfillan interjecting:

The Hon. R.D. LAWSON: There is also a vulnerable species. We will not go down that route, Mr President. We do support that acting in breach of a court order or an injunction should be an aggravating offence, because acting in defiance of specific court orders, indeed, is a serious matter which ought be visited with serious consequences. Mind you, absolutely no evidence has been given by the government that the courts are not already treating these circumstances as aggravating circumstances. It should be noted that the new provision states that, where a jury finds a person guilty of an aggravated offence and two or more aggravating factors are alleged in the instrument of charge, the jury must state which of the aggravating factors it finds to have been established. This is contrary to the usual rule that juries are not required, in effect, to identify reasoning, state reasons, or state anything other than guilty or not guilty.

I would ask the minister to give other examples if, indeed, there are other examples of similar instances where juries are required to state factors. We note also that the definition of 'spouse' includes de facto spouse in this bill. I ask whether or not consideration was given to including same sex spouses and, if that was considered, why it was rejected. I turn now to the new provisions in division 7 of part III of the Criminal Law Consolidation Act under the general rubric of causing harm. Division 7 is currently entitled 'Acts causing or intended to cause danger to life or bodily harm'. This title is amended and division 7 will now comprise one section, section 20, which will set out, for the first time, a statutory definition of 'assault' and sets out maximum penalties of imprisonment for two years for the basic offence and three years for the aggravated offence. The second reading explanation states that the newly defined offence of assault should 'reflect the case law on what constitutes assault'. That is our understanding and that was also the view of the Criminal Law Committee of the Law Society, which in a letter dated 16 February to the Attorney-General and circulated to members describes the definition 'as previously defined by the common law'.

By way of aside, I should again commend the Criminal Law Committee of the Law Society. Their long letter in relation to this bill is a helpful contribution to assist this parliament in understanding the bill and also to assist the community, in accordance with the politically neutral stance of the Law Society and following its longstanding practice of commenting on legislation. I commend them for continuing the practice and for circulating to the opposition and other members of parliament their views. I remind the chamber again that members of the Law Society are not paid for commenting on legislation: they do it out of a sense of public duty. It is surprising that they should still be doing it with this government, in the light of the sneering and well-orchestrated denigration of criminal lawyers by the Premier. He wants to turn our prosecutors into Elliott Ness. He wants to turn the DPP into American style district attorneys. He wants to politicise the criminal justice system, as it is in the United States.

He treats the lawyers as scapegoats, in the same way as he treats the pokie barons and the bikies, because he sees political advantage in denigrating lawyers. Frankly, I am surprised that they continue to bother to comment, and I might say that, after the snide remarks of the Attorney-General about the residents of leafy suburbs, you would expect that they would be well justified in ignoring this government's legislation. I might also add on this interesting topic: compare the snide remarks of the Attorney-General about the criminal lawyers who live in the leafy suburbs with his unctuous crawling to the officers of the office of the DPP whilst, at the same time, undermining the incumbent. The government might think it is clever politics but it was reprehensible behaviour. Returning to the new description of assault, proposed section 22 provides:

> However, conduct that lies within limits of what would be generally accepted in the community as normal incidents of social interaction or community life cannot amount to an assault.

We seriously question the utility of provisions of this kind. The sentiment expressed is fair enough. It is a description of a concept with which we generally agree and which reflects current legal policy. Inserting words such as this into a statute—extracting one sentence out of some judicial decision or amalgamating a couple of sentences out of various decisions and setting them in the concrete of the statutory definition—is really undermining the vitality, strength and flexibility of the common law.

The advantage of leaving these issues to the courts is that they can be developed on a case by case basis. They can be refined and explained. When concepts such as this are reduced to a statutory formula, the result usually is an inflexible rule or, as the Law Society puts it, creating a degree of inflexibility. Of course, this trend is not new. We see it in section 238 of the Criminal Law Consolidation Act in relation to offences of a public nature, introduced as recently as 1992, and there the definition seeks to define the concept of acting improperly. That section provides:

> . . . if the officer. . . knowingly or recklessly acts contrary to the standards of propriety generally and reasonably expected by ordinary and decent members of the community. . .

'The standards of propriety generally and reasonably expected by ordinary and decent members of the community' is what we see in section 238.

Proposed section 22 speaks about what will be generally accepted in the community 'as a normal incident of social interaction'. It might be argued that many things which might generally be accepted as normal are not, in fact, acceptable—domestic violence, for example. Until fairly recently, many people in our community would have regarded domestic violence, and especially violence by males towards females, as normal and acceptable. That does not mean that the law should adopt a standard of that kind. We fear that a provision of this kind is just one of a number of provisions in this bill which will give rise to endless argument, debate, uncertainty, cost and legal points. This is not actually an improvement to the existing law.

Division 7A is entitled 'Causing physical or mental harm'. It repeals sections 20 to 27 of the act and substitutes new offences for the following: impeding a person endeavouring to save himself from a shipwreck (old section 20); wounding, etc., with intent to do grievous bodily harm (previously section 21); malicious wounding (old section 23); choking or stupefying to commit an indictable offence (previously section 25); and maliciously administering poison with intent to injure, aggrieve or annoy another (old section 27). In place of these offences are the five new general offences that I mentioned earlier.

It ought be noted that a distinction will be drawn between 'serious harm' and 'harm'. 'Harm' includes both physical and mental harm, and the former includes infection with a disease such as HIV. Proposed section 21 will incorporate a number of definitions—for example, 'mental harm', 'physical harm', 'recklessly' and 'serious harm'. New section 22 is a long section that describes conduct falling outside the ambit of this division. The very fact that it was considered necessary to include a long section describing what is not covered highlights the difficulty of the approach that has been adopted.

Generally speaking, statutes on the criminal law define what is included and not what is excluded. It is obvious that the drafters of this legislation realised that there were some forms of 'harm' which would otherwise have been caught by the legislation—for example, a parent smacking a child; a teacher disciplining a child; the circumcision of a male child; and participants in sporting activities. The example given in the second reading explanation is of a boxer, but rugby players might be a better example. The views of the Law Society on these sections are worth placing on the public record, as follows:

> Clause 22 defines and deals with the issue of conduct falling outside the ambit of the Division. This refers to conduct of what would generally be accepted in the community as normal incidents of social interaction or community life. Conceivably a person may act morally [I am not sure whether it did not mean 'immorally'], inappropriately or reprehensibly and this may not be generally accepted in the community as appropriate behaviour. Harm could arise negligently or deliberately in the area of personal relationships, particularly of a mental nature at the termination of a relationship in circumstances which may not necessarily be accepted as normal incidents of social interaction or community life but heretofore have been not within the ambit of criminal charges. A victim who suffers from a psychiatric reaction such as depression at the termination of a relationship where one party acts inappropriately or reprehensibly. It is not clear that such conduct would be excluded under clause 22. Not being defined is too vague and uncertain. If this is desirable to be included then it perhaps should be defined requiring diagnosis of a mental illness or disorder or otherwise appropriately.

The Law Society makes a very good point. The Attorney-General's second reading explanation simply fails to address the issues raised by the Law Society. To put it more bluntly, this law will make it a criminal offence, punishable by imprisonment for up to 20 years, for causing mental harm to another person. The definition states that mental harm does not include emotional reactions such as distress, grief or fear unless they result in psychological harm. In other words, if emotional reactions such as distress, grief and so on do result in psychological harm, they will constitute harm for the purposes of this new criminal offence, and anyone who causes such harm will be stigmatised as a criminal and liable to be jailed. As the Law Society puts it, this means that, if a former domestic partner suffers a psychiatric reaction such as depression because of the actions of his or her former partner, let us say, in terminating the relationship, that former partner might be exposed to criminal liability. This is a serious concern that ought be addressed by the government in its response.

Notwithstanding our reservations about these provisions—they may be fair enough and they may be reasonable—the point I am making is that the government never announced that it intended to introduce these new offences. They were not part of its election policy and they have not been the subject of any debate or discussion in the community. A bill is simply tabled: there are no arguments. The government, in the minister's second reading explanation, simply glosses over the issue in two paragraphs, with the assurance that 'the ordinary disappointments of life should not be elevated into criminal offences.' We agree with that sentiment, but does the bill achieve that objective?

I ask the minister to put on the record whether any other state or territory has adopted these provisions. We would appreciate seeing a list of comparable sections in other legislation because, frankly, I have not been able to find such provisions. I also request the minister to put on the record whether he received any advice from the Police Commissioner or the Director of Public Prosecutions to indicate that there have been examples of conduct covered by these new sections, which is presently going unpunished because of an absence in our criminal law of provisions such as these. If such advice does exist, when was it obtained and what is its substance? Finally, will the minister indicate whether the government is aware of any case in South Australian history in which a person would be liable to be prosecuted under those provisions but has not been prosecuted because of the absence of a provision of this kind?

I move on to the subject of criminal negligence. This is an important topic for us. The second reading explanation acknowledges that the new causing harm offences will include a new offence of causing harm by criminal negligence. Later in the explanation the newness of this offence was discounted when the minister said:

> To ensure the new harm offences cover the same conduct that is prescribed by existing offences, the concepts of harm, consent, recklessness and criminal negligence have been defined with great care.

I am there referring to the minister's second reading explanation at pages 1430-31 of *Hansard*. In that passage the government is trying to assure the parliament and the community that these new offences cover the same conduct; in other words, that these are merely new descriptions of offences already prescribed by our criminal law, whether statute or common law. So far as I can see the subject of criminal negligence is not again mentioned in the second reading explanation or in the detailed explanation of clauses. The Law Society correctly identified that 'the inclusion of criminal negligence widens the scope to which the criminal

law will now be applied to criminally negligent actions'. Later it says:

> The inclusion of criminal negligence will broaden the cover of activities that may have previously not been elevated to criminal conduct.

The new offence is proposed to appear in section 23(4) as follows:

> A person who causes serious harm to another and is criminally negligent in doing so is guilty of an offence. Maximum penalty: five years.

There are two more serious offences in the same bracket, namely, intending (that is, deliberately) causing serious harm, for which the penalty is 20 years, and recklessly causing serious harm, for which the penalty is 15 years. It is important to note that the new offence of causing harm by criminal negligence applies in cases where the defendant does not intend to cause the harm. So far as I am aware, the expression 'criminally negligent' does not appear elsewhere in our statute law. In another place the Attorney-General was asked to indicate whether it appeared in other statutes and he gave a typically glib response and quoted a number of provisions in other legislation. The question being asked was: where does the expression 'criminally negligent' appear? What the Attorney said was:

> Criminal negligence offences of causing harm or serious harm are common in Australia.

For example, in the Victorian Crimes Act, section 24 has a marginal note, 'negligently causing serious injury.' Members should note that it does not use the words 'criminal negligence.' The Attorney referred to section 328 of the Queensland code—this is the celebrated Griffith criminal code of 1899—which provides:

> Negligent acts causing harm.
> (1) Any person who unlawfully does any act, or omits to do any act which it is the person's duty to do, by which act or omission bodily harm is actually caused to any person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

The point is: the expression used is not 'criminally negligent.' In the Western Australian code it is section 306, and the Attorney said that this is criminal negligence. That section does not use the expression. Its marginal note is 'unlawful acts causing bodily harm.' Similarly, in New South Wales, section 54 of the Crimes Act does not refer to 'criminal negligence.' It says:

> Whosever, by any unlawful or negligent act, or omission, causes grievous bodily harm to any person, shall be liable to imprisonment for two years.

The Attorney, in another place, referred to section 86 of the Northern Territory criminal code. I think he is in error, in that it is section 186. Once again, like the other states, it does not refer to 'criminally negligent', and nor does the ACT legislation referred to by the Attorney.

We do, in our criminal law, have the expression 'culpably negligent.' That appears in section 19A of the Criminal Law Consolidation Act, dealing with causing death by dangerous driving. It refers to a person who 'drives a motor vehicle in a culpably negligent manner, recklessly or at a speed, or in a manner dangerous to the public'. As the government well knows, most charges under that section are based upon driving in a manner dangerous to the public. These are well established rules. However, the expression used in that section is 'culpably negligent' and it is equated with 'recklessly'.

If we already have in our criminal law the notion of culpable negligence, why introduce a new concept of criminal negligence? The explanation given by the Attorney-General and by the government does not stand up to scrutiny. Once again, we ask the minister to place on the record whether he has received any information from the Police Commissioner, the Director of Public Prosecutions or anyone else to the effect that there has been conduct of the kind which will be covered by this new section which is presently going unpunished because of some defect in our criminal law. The question was asked in another place, and we note that the Attorney failed to respond to it.

We are concerned about the implications of this new offence of criminal negligence. More importantly, we are concerned about the apparent absence of public consultation on this new offence. The opposition examined the report of the model criminal code officers on this subject. It is fair to say that the officers' discussion on the topic was very brief. They refer to the fact that there is a similar provision in Victoria, section 24 of the Crimes Act, which provides:

> A person who by negligently doing or omitting to do an act causes a serious injury to another person is guilty of an indictable offence.

It appears from the report that that offence has been on the statute books in Victoria for more than 100 years. The report states that Victoria introduced the offence 'as a consequence of a major train accident on the Ballarat line, and the mover intended the standard of negligence to be comparable to that of manslaughter'. The Criminal Officers Code Committee also refers to the Victorian decision of the R v Shields in 1981. In that case the full court held that the standard of negligence required under section 24 was the same standard for criminal negligence manslaughter. The committee expressed the view that an offence of negligently causing serious harm should be included in the Model Criminal Code, and they gave two reasons for its inclusion. The first was their perception that existing judicial decisions were inadequate and that a gap needed to be filled. The second reason was:

> Such an offence is necessary in order to criminalise those instances of gross negligence that cause serious harm, such as the removal of safety equipment in the work place.

It is clear from a close perusal of the report that support for the inclusion of this offence was not unanimous. For example, the report notes that the judges of the Queensland Supreme Court had reservations about incorporating negligence into the criminal law. On pages 44 to 45 of the report they criticise the proposed definition of criminal negligence on the following ground:

> That definition may be regarded as falling short of the high level of negligence necessary to constitute criminal negligence. Currently, 'recklessness involving grave moral guilt', 'gross negligence', 'culpable conduct' and 'callous disregard' are commonly used in summing up the notion. . . the judges think that the present proposal substantially widens the range of matters which may be criminally charged so that matters not traditionally regarded as crimes may now be tried in the criminal courts. Indeed, a high percentage of defendants in the familiar motor vehicle and master and servant cases may be liable to prosecution if the present proposal is brought into law.

The Model Criminal Code Officers Committee simply dismissed that criticism, saying that they were following the test for criminal negligence approved by the High Court in the South Australian case of Wilson in 1992 and further developed in subsequent cases. The committee made the observation that the offences existed in Victoria for many years without adverse results. However, unless and until the opposition receives a satisfactory explanation for the

incorporation of criminal negligence into our criminal law, we will not support this proposal.

On this subject it is interesting to note that the landmark study of the criminal law in this state, under Justice Roma Mitchell, did not recommend extending the concept of negligence into the criminal law: indeed, it specifically recommended against it. I here refer to the Mitchell Report on criminal law and penal methods, the fourth report on the substantive criminal law published in 1977 at page 54.

I turn next to the proposed section 23(2), which will enable a court to impose a higher penalty than the maximum prescribed in section 23(1). Remember, section 23(1) creates these new aggravated offences with serious penalties—20 and 25 years. This section 23(2) will enable the court to impose a higher penalty than the maximum. This does seem contrary to the general scheme for criminal law statutes, which impose a maximum penalty for the worst possible case. If you have an indefinite maximum penalty, as contemplated by this new subsection, how does the court know what parliament says is the maximum for the worst offence? It is up to the courts to determine that. That appears to us to be delegating the traditional function of the parliament to the courts in stipulating the maximum penalty for any particular offence.

I ask the minister to put on the record whether any other jurisdiction has a comparable provision and who recommended the inclusion of this provision in this legislation. Is this provision motivated by a desire to see South Australian courts where Eliot Ness is the DPP and we have American-style DAs sentencing people to 100 years, 200 years or 300 years' imprisonment—whatever a court considers will be a newsworthy penalty?

I turn now to alternative verdicts. There is a proposal that there be a special provision relating to alternative verdicts. Indeed, section 24 of the existing act, which is to be repealed by this bill, contains similar provisions. However, the Law Society has written in relation to this matter and made an important observation:

> There may be a number of alternative verdicts available in relation to aggravated offences, given that a jury is to find a person guilty of an aggravated offence or within the categories of serious harm and harm. These are separate offences, all of which need to be highlighted to a jury. The potential for appeals and increased court work is significant.

Once again, I invite the government to put on the record information or material that will refute, if indeed they can, the assertions of the Law Society. I ask the government to indicate whether the DPP has given any advice in relation to the difficulties of instructing juries under this section. If so, what is that advice? I also ask the minister to indicate whether the judges have commented on this or any other aspects of this bill, as they often do. I do not seek to politicise the judiciary, but it is appropriate if information has been received for it to be laid before this parliament so that, when members are voting on its provisions, they can have the benefits of that information.

I now turn to kidnapping. I mentioned earlier that the proposed heading to division 9 describes as 'kidnapping' offences which include not only traditional kidnapping but also contraventions of orders. The headings ought to include something similar to wrongful removal of children or similar verbiage.

Serious criminal trespass in non-residential buildings is dealt with in clause 22. This clause will amend section 169 of the Criminal Law Consolidation Act, which presently provides a maximum of 10 years' imprisonment for serious criminal trespass in a non-residential building. If the offender is armed or commits the offence in company with others, the maximum penalty is already 20 years. In other words, the existing law already contains an aggravating circumstance. Consistent with the scheme of this bill, that specific aggravating circumstance is removed and the general provisions of section 5AA will apply. The Law Society states:

> This clause can still create injustice. We are dealing with youthful offenders although over the age of 18 and with limited prior criminal history and where there are present aggravating features.

I, for one, would be pleased to hear the government's response to that criticism.

Next is the unrelated matter of obstructing or disturbing secular weddings and funerals. I have already indicated that the Liberal opposition will support this amendment. However, I ask the government to put on the record who suggested this amendment. Will the Attorney-General inform the council of any circumstances of which the government is aware at which an obstruction or disturbance of a secular service has occurred but could not be prosecuted by reason of the absence of this provision? Could the Attorney indicate the number of prosecutions that have occurred during the last 10 years for the existing offence of disturbing religious services? Finally, will he put on the record his response to the criticism of the Law Society that the definition of religion is deficient in that it only accommodates 'philosophies and systems of belief that are generally recognised in the community'?

In conclusion, we seek answers to the questions that have been posed in this contribution. The information sought will enable members to better judge whether this bill in its entirety should be supported. I have indicated that we support the principles. During the committee stage we will introduce amendments to accommodate some of the issues that I have raised. However, the answers of the government should be on the record before the bill goes into committee.

Finally, I cannot leave the topic without expressing, once again, regret that the Attorney-General has allowed the government's proposal for aggravated offences to be combined with a complex partial codification of an important part of our criminal law. It is an unnecessary complication. If this Attorney-General had any practical experience of the operation of the criminal law he would not have introduced the bill in this form.

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

ADJOURNMENT

At 6.27 p.m. the council adjourned until Tuesday 1 June at 2.15 p.m.