HOUSE OF ASSEMBLY

Thursday 13 July 2000

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 10.30 a.m. and read prayers.

PARENTAL RESPONSIBILITY BILL

The Hon. G.M. GUNN (Stuart) obtained leave and introduced a bill for an act to impose a criminal liability on parents for offences committed by their children; to give the police power to remove children from public places; to amend the Young Offenders Act 1993; and for other purposes. Read a first time.

The Hon. G.M. GUNN: I move:

That this bill now be read a second time.

In so moving, I wish to explain that the reason for this bill is that for a considerable period the community has had to suffer the actions of a few who have made life particularly difficult for other people in their communities. In my own case I have had regularly brought to my attention the fact that juveniles, some as young as eight years old, are wandering the streets at all hours of the night—3 o'clock, 4 o'clock in the morning—either in small groups or as part of large groups of young people. When police come along and take them home, there is no-one at home who wishes to exercise any care or control over them. I would think that all members of the House, in the eyes of the world, and the majority of the community would believe that children as young as eight, 10 and 12 years should not be wandering at large on the streets at such a time of night.

Therefore, the responsibility of this parliament is to protect those young people and to protect the community. If we continue to allow this to occur, we are not properly discharging our responsibility to the people of South Australia. For a long time all sorts of programs and initiatives have been in place but, unfortunately, in my view, they have been less than effective. At the end of the day we have to understand that we have a responsibility to ensure that ordinary law-abiding citizens are protected. For too long the victims have been of secondary consideration, and I am clearly of the view that the community at large would support this measure. It will require that the government put resources aside to provide for safe houses strategically located. However, that is a small price to pay to protect the public and also prevent young people from embarking on a career of crime and ending up in the prison system, because that is where they will end.

Elderly law-abiding citizens should not have to put up with their homes being vandalised, their cars damaged and the amenity of their area interfered with by people who should be supervised. I cannot understand how parents are not aware of what their children are doing at 2 and 3 o'clock in the morning. I cannot understand why any parent could be so irresponsible as to not properly discharge their duties in this regard.

We have been talking about measures for a long time. I have discussed this bill at length with my colleagues. It is my intention to have it lie on the table of the parliament until we come back in October so that all interested members and persons can properly consider the provisions and, hopefully, we can then pass this measure and put in place a set of conditions which will give police the power, if the parents of the young people in question are either unwilling or unable to look after them, to have them cared for in effective and proper surroundings.

It is clear that, if people are in the streets at all hours of the night and day, there is a good chance that they will get into trouble. In my own constituency we are aware of these gangs. In the newspaper last weekend there was information in relation to what is taking place in Adelaide. I believe that neither of these sets of circumstances can be tolerated any longer. The public expects the parliament to take effective action in relation to these anti-social behavioural problems, and I therefore believe that this measure is a course of action that will assist the police in protecting the community against anti-social behaviour. It is no good certain sections of the community saying that the programs have to be given a longer time and we have to be more tolerant. At the end of the day, if someone's home has been vandalised; if someone's business has been repeatedly broken into and trashed; if motor cars have been damaged in the streets; if people are climbing onto elderly people's roofs in the middle of the night, using their doorstep for toilets and generally carrying on in a quite outrageous manner, the time has come for the parliament to take effective action in relation to these people, and this bill proposes such action.

Clause 1 deals with the short title. Clause 2 is the interpretation provision. Clause 3 deals with criminal liability of parents of a child who commits an offence. Clause 4 deals with the removal of children from a public place. Clause 5 is the regulation provision. Clause 6 amends the Young Offenders Act 1993, inserting new section 28 providing the power for counselling orders to be made. I commend the bill to the House and look forward to the support of other members, because this is a measure which, in my view, is long overdue and is in the public interest.

Mr De LAINE secured the adjournment of the debate:

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) ACT REPEAL BILL

Third reading.

Mr HAMILTON-SMITH (Waite): I move:

That this bill be now read a third time.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I rise in support of this bill. As members of the House would know, the Netherby Kindergarten has been sited on Waite arboretum land. Following the review of the site and the need for a new building because the old building was a Second World War army transfer hut, the kindergarten had operated very successfully there since 1953. In the plans for building a new kindergarten on the site, a large amount of consultation was undertaken with the community. The government and the local member decided that that arboretum site was not the best one for the new building. As a result of that, the new Netherby Kindergarten and groundworks have now commenced and, I am pleased to say, will be sited on Waite Road which is along side the current university child-care centre. It will form an excellent combination between the child-care centre and the kindergarten.

The previous advice was that this bill perhaps was not needed because of the protection given by the Waite Trust Act and that, in that case, if a parent at some time in the future came back to the department claiming injury to a child or compensation for an event that might have happened while

the child attended the kindergarten, there was sufficient protection within the Waite Trust Act that it could stand and this bill not be required. However, on further consultation with Crown Law, there are words within the Waite Trust Act that do allow a window of opportunity, so to speak, so that at some time in the future there may be an opportunity for a parent to come back and make a claim against either the university or the department. As a result of that advice it is therefore appropriate for this bill to repeal that act and therefore put beyond doubt, first, that there can be a claim and, secondly and most importantly, or as important, that a structure such as this cannot be placed on arboretum land. So, the Waite arboretum is fully protected in terms of any building that any government department—if we decided we wanted to put a primary school or anything like that on there—wanted to put on the land and, if that were to happen, the issue would have to be brought back before parliament again to have the Waite Trust Act amended to allow that event to occur.

Given that and given that I also support that arboretum land should remain as open space land and see the value of doing that, I support this bill. I commend the member for Waite for his work on it and his consultation with the local community. This matter has been extended for a long period of time, but I think the community can be very pleased with the outcome, because the Waite arboretum land has been preserved, and the community will have a new kindergarten which will be an excellent facility for the children of that area. So, it is a win-win situation. With those few words, I commend the member for Waite for his work on this and on the issue generally and have much pleasure in supporting the bill.

Ms WHITE (Taylor): I spoke on the second reading of this bill and put the position that the Labor opposition would support the bill. I want to mention one thing that the member raised in his comments, because it differed a little with regard to the response that the member for Waite gave me last week as to the necessity of that clause which alleviated liability of the crown or the university for that time under which the act to be repealed would have operated. The minister said just now that that clause was necessary.

I got the impression from the member for Waite that it was just there for completeness sake, just in case. However, the minister seemed to give the impression that it was indeed necessary because without it there was a bit of an open space in the Waite Trust Act that would allow claims for compensation for injury, for example, that occurred on that land while the Netherby Kindergarten Act was valid.

I wonder whether in closing the third reading debate the member for Waite would address the issue as to whether that does imply that there is a loophole, so to speak, in the Waite Trust Act and that there are potential liabilities, given the Crown Law advice to which the minister has now alluded: in the government's opinion, or that of Crown Law, does a loophole exist in relation to other sections of the Waite Trust land that have not had this disclaimer apply?

Mr HAMILTON-SMITH secured the adjournment of the debate.

NATIVE VEGETATION ACT

Adjourned debate on motion of Mr Hill:

That the regulations under the Native Vegetation Act 1991 relating to exemptions, made on 16 December and laid on the table of this House on 28 March, be disallowed.

(Continued from 4 May. Page 1076.)

Mr HILL (Kaurna): I have spoken on this issue a number of times and on a number of occasions so I will not take the time of the House now. I think the arguments have been put by members on this side on a number of occasions as well. The regulations introduced by the government will aid the destruction of native vegetation in our state. They have attempted to close some loopholes which have resulted in problems in the South-East and over the Yorke Peninsula. I encourage members to support the proposition.

Motion negatived.

CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 1362.)

Mr HANNA (Mitchell): I thank some members of the chamber for their support. I signal that, should the second reading be passed, it is my intention that we go momentarily into committee and then defer the matter so that any possible amendments to make this bill acceptable to the whole chamber might be considered. It is unfortunate that it appears that opinion will be divided on party lines. I believe that, if members consult business and the community, they will find that there is support for fixed four-year parliamentary terms.

The House divided on the second reading:

AYES (22)

Atkinson, M. J.	Bedford, F. E.
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Foley, K. O.	Hanna, K. (teller)
Hill, J. D.	Hurley, A. K.
Key, S. W.	Koutsantonis, T.
Lewis, I. P.	Maywald, K. A.
McEwen, R. J.	Rankine, J. M.
Rann, M. D.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
White, P. L.	Wright, M. J.

NOES (20)

Armitage, M. H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L.	Ingerson, G. A.
Kerin, R. G.	Kotz, D. C.
Matthew, W. A.	Meier, E. J.
Olsen, J. W.	Penfold, E. M.
Scalzi, G.	Such, R. B.
Williams, M. R.	Wotton, D. C.

PAIR(S)

Breuer, L. R.	Brokenshire, R. L.
Geraghty, R. K.	Venning, I. H.

Majority of 2 for the Ayes.

Second reading thus carried.

In committee.

Clause 1.

Progress reported; committee to sit again.

CITY OF ADELAIDE (DEVELOPMENT WITHIN PARK LANDS) AMENDMENT BILL

In committee.

(Continued from 1 June. Page 1362.)

Clause 3.

Mr MEIER: As members are aware, this clause deals with the definition of 'Adelaide parklands'. It therefore deals with the crux of this whole piece of legislation as to what can or cannot be developed within the Adelaide parklands. Whilst I appreciate that the member for Hammond wishes to limit development within the Adelaide parklands area—and I have no problem with the basis for that thinking—the question is: how is that development to be restricted and what are the trade-offs?

Some of the Adelaide parklands are in pristine condition but others one would probably not even want to see. Therefore, I hope that the definition of 'Adelaide parklands' in this bill differentiates between land which is and has always been accepted as parkland versus land which, whilst it might have been on Colonel Light's original maps, is no longer parkland because it has been built on and used for a long time.

I cite the specific examples of the Museum, the Art Gallery, the Adelaide University, and the Royal Adelaide Hospital. If we tamper with land which has been built on and give that back to the Adelaide parklands straight away, what will be the trade-off? If, for example, the Royal Adelaide Hospital needs an additional wing or an upgrade of a wing—which may well result in less parkland area being used because the building could go higher rather than lower—will that land automatically be taken away from the Royal Adelaide Hospital and become part of the general parklands?

I ask the member for Hammond whether he has any thoughts regarding that, bearing in mind that his definition is simple: namely, the parklands as identified on maps prepared by Colonel William Light. I believe this whole issue goes much deeper than that and that it is difficult to argue that some of this land which I have identified is currently parkland.

Mr LEWIS: I will address the substance of the anxieties raised by the member for Goyder. I ascribe to him consciously, openly and very deliberately my belief that he is not engaging in a filibuster and that he is genuine in his inquiry. During my second reading explanation, I explained that the intention of the Public Works Committee—and, therefore, me in putting this measure to the parliament on behalf of the committee—was to ensure that any development that was undertaken would have to get the consent of the Adelaide City Council as well as each house of parliament before it could proceed.

I do not envisage any problems. When you strip away their commitments to political parties, the parliament is a body of eminently sensible people. Secondly, the Adelaide City Council knows what is in the public interest. Regarding a matter such as the one to which the honourable member has drawn attention, I am sure that the parliament would have no hesitation in passing a motion in a trice through this House and the other house if it were simply to enable development to occur on the existing Adelaide Hospital site—as the honourable member said—or the university, as long as it was for the purposes of the hospital or the university.

However, we live in uncertain times. Members would agree that the health commission might be corporatised by any government. This legislation is intended to stand for all time as a check and balance against excessive building development and the takeover of open space or inappropriate types of development in locations where buildings already exist. If the health commission were to be corporatised and sold, the property on which it stands would go with it.

Mr Chairman, you and I know that if the health commission went out of the hands of the government into the public domain as a company, the Royal Adelaide Hospital, being the property of that company, would then be situated on freehold land belonging to that company. In such a case, it would be possible for that company to begin developing that land as a car park or any other jolly thing that it may choose to do. I am sure that the member for Goyder would not want that to happen. However, as the matter stands, it could happen if we do not put this kind of check into law.

That is why I, on behalf of the committee, have used the definition of 'any other land previously included as part of the Adelaide parklands by public maps prepared by Colonel William Light', because that covers all those eventualities. It ensures that, for instance, the University of Adelaide cannot raise revenue by building a public car park on university grounds. That would be seen by the people of South Australia in general and Adelaide city people in particular as an outrage.

I am sure that the member for Goyder and I would not want the Adelaide University to engage in a blatant revenue raising exercise through profit from a car park or any other commercial enterprise on land which was given to the university for the purposes of the university not for the purposes of making money. That is why we have deliberately included all the lands which Colonel William Light originally intended to be part of the parklands.

Let me repeat that parliament, indeed each house of the parliament, and the city council are eminently sensible institutions, and the public knows that it can rely on the fact that, if all three agree that it is a good idea, of course it is in the public interest to proceed. If, however, any of the three demur it means that there are grounds for concern that need to be clarified through consultation before anything proceeds; otherwise, it should not proceed.

This protects for all time the people in South Australia who do not want to see further inappropriate alienation of any part of what was parkland for any purpose other than that for which they think it is appropriate. It does not prevent development. It does not stop sensible reconstruction of building facilities on the university campus, the Royal Adelaide Hospital campus or anywhere else. It simply protects that land against being used for inappropriate purposes.

Mr MEIER: Let us take a hypothetical situation that the Royal Adelaide Hospital needs to expand its car park. In fact, this is a real issue.

Mr Lewis interjecting:

Mr MEIER: I have taken it up with the minister and we are doing it right now. While I have the opportunity, I thank the minister and the government for what they are doing to assist country residents particularly, let alone city residents. So many people from my area come to the city in community cars, or often they are brought by a member of the family, and parking has been a real problem for many of them, particularly if a person is finding it difficult to walk as a result of their injury or if an older person has difficulty walking a distance.

Let us assume (and it is not occurring on this occasion) that for a new car park an extra two metres has to be taken

which currently is not under the leasehold of the Royal Adelaide Hospital. It is currently unused land. It is not even parkland, as I would refer to parkland—in other words, an area in which people can relax. To all intents and purposes, it is just stuck in a back alley and has never been allocated. As a result of this technical definition, you would be encroaching another couple of metres onto Colonel William Light's plan. What is the situation in that respect for having to find some other parkland to give back to grab that extra two metres by 50 metres, say, to enable the car park to be enlarged?

Mr LEWIS: As it stands in law now, that would have to run the full gamut of the planning proposal. Let me make it plain that if it is an eminently sensible proposition parliament will approve it, as will the Adelaide City Council. There is no prevention of things of commonsense envisaged here. The member for Goyder needs to know that the Adelaide hospital cannot now appropriate land, nor can the Health Commission, as it were, outside its existing boundaries without going the full gamut of planning approval—unless the government of the day proclaims it to be such, as the government did over the development of that obscenity—the massage parlour—on Memorial Drive. That has been developed on what were tennis courts, where, as a member of the organisation, one can now buy seven days a week, 52 weeks a year, car parking for $700 or $800. I think it might have been gone up to $1 500, but that is about half the price you would pay for a car park in the city. What the government did there is an abomination.

The Hon. W.A. Matthew interjecting:

Mr LEWIS: Yes, the building that is now adjacent to Memorial Drive has 700 car parks in it.

The Hon. W.A. Matthew interjecting:

Mr LEWIS: The minister is saying that it is okay to dig up the parklands, bury the car parks underneath and then lift the parklands above them. That may be a good idea, but let the people of South Australia have a say in it and do not do what this Liberal Government did, that is, simply destabilise the city council, kick it out and, while it is out, resolve through cabinet to put a massage parlour on the parklands. That is how it was done.

Let the minister be in no doubt whatever as to the process that was involved. That is how it was done. That is kind of thing which has been done in the past two or three years and which has resulted in the public spontaneously, without in any way being solicited in the process, writing dozens of letters and talking on radio talkback programs to express their outrage at what had been done.

It came to the attention of the Public Works Committee in no small measure in heaps of communications and mail. The public wanted the Public Works Committee to do something about it. They wanted somebody, but they could not find an ally anywhere, because the government chose to interpret the law to mean that it was not crown land, even though the law incontrovertibly established that the parklands was Crown land. I respond to the minister's interjections by saying that and, if he wants me to, I will go through it with him, chapter, book and verse as to how parkland is crown land and that the development should have come to the Public Works Committee.

It discredited the government enormously to have deliberately used sophistry to argue around it, knowing that the Public Works Committee does not have the power to take an injunction in the Supreme Court to do anything to enforce its opinion of the meaning of the act.

In any case, I return to the substance of the hypothetical question raised by the member for Goyder. There is no risk. What is necessary can be done. Indeed, right now the Public Works Committee has examined proposals for the redevelopment of the Adelaide hospital campus which includes the establishment of car parking facilities that the Public Works Committee and the public in the main regard as appropriate. There has been some protest about it, but there are probably as many people presenting opinion to us on the other side of the coin.

What is eminently sensible can be done by this measure. It will be facilitated by this bill when it becomes law. This bill, in becoming law, would prevent any further misuse of parklands for the construction of gymnasiums and massage parlours of the kind which we have seen on Memorial Drive and towards which the public is so antagonistic. It ensures that there will be open disclosure, public debate and public consensus about any future alienation from open space to building development of one kind or another before that can go ahead. That is the reason for it. There is no hidden agenda here at all. It is for that simple purpose.

The Hon. D.C. KOTZ: I put on record that the government will oppose this bill. Whilst it shares the member for Hammond's obvious desire to protect the Adelaide parklands and preserve the unique qualities of our capital city, it believes that there are certainly better and more effective ways of bringing this about, without the resultant problems which it sees in the bill before us. This debate has ranged fairly widely across both clauses of this bill, so I will make my comments now, picking up on the discussion that we have already had. The most significant implication arising from the bill as we see it is the potential to create confusion and ambiguity without providing any mechanism to resolve conflicts.

How will the parliament and the Adelaide City Council deal with situations where the council proposes to grant a lease and the parliament does not agree? How can we be clear about which leases and licences exist and which will be caught by the mechanisms of this bill? Do we know what arrangements have been entered into by groups such as the Universities of Adelaide and South Australia and whether their arrangements will be caught by these provisions? This not only overrides the provisions of the Development Act 1993 but it also sets up the potential for decision making which is inconsistent with the development plan approved under the act. For example, if a use is consistent with a development plan and the Adelaide City Council approves an application, for example, for a kiosk, should the parliament be stepping in and potentially not approving that application?

The requirement for joint approval of development where the total cost will be greater than $100 000 introduces an approval process to very small cost building decisions, and could certainly have a significant impact on organisations and institutions such as the University of Adelaide, the University of South Australia, the South Australian Cricket Association (meaning the Adelaide Oval) and the Adelaide Convention Centre. It would also operate to slow down the approval processes for minor works in state government structures such as the Royal Adelaide Hospital and the State Library.

Mr Lewis: That's not true.

The Hon. D.C. KOTZ: It is very true in the case of minor works. We believe the provisions of the bill to be impracticable and offer two examples for the House to consider—and of course there are many more. The first example is where the Botanic Gardens may propose to demolish three separate

glasshouses and construct a new, single purpose glasshouse on the same site at a total cost of some $250 000. The application is notified to the Adelaide City Council as a Crown development. Under this bill the Adelaide City Council and both houses of parliament would need to approve the development. In the second example, the University of Adelaide may propose to expand the laboratory facilities for its chemistry department at a total cost of $900 000. Under the provisions of the bill, the university would require the approval of both houses of parliament.

I believe that such examples clearly illustrate that situations such as those I have outlined could certainly develop if this bill were to become law. The government has no desire to delay or obstruct what are such obvious improvements to existing structures, or devote parliamentary time to such matters, which are clearly already appropriately considered by the Adelaide City Council.

Clause 1, dealing with interpretation, provides a new definition of the Adelaide parklands. The difficulty with this clause is that the definition of what is parkland is so broad that it catches activities which have previously been administered through other statutes. I am particularly concerned about the impact of the road provisions. At present the Roads (Opening and Closing) Act provides for consultation with adjoining councils. The bill is silent on the role of those councils and whose areas abut the actual parklands; in fact, it ignores them. Clause 2, dealing with activities requiring parliamentary and Adelaide City Council approval, draws from the definition to provide a joint authorisation process for development and leasing licensing with the parklands. The problem with this area is that it also adds a new layer of approval which is additional to the Development Act. As the previous examples illustrated, the process would become intolerably complex by requiring joint authorisation from the Adelaide City Council and both houses of parliament, adding to the costs and time expended on relatively minor works.

I wish to address some of the matters that have been raised by the member for Hammond in his second reading speech. It is not correct to say that the concerns raised by the honourable member in the Public Works Committee concerning the alienation of the parklands have been ignored; nothing could be further from the truth. On 29 September 1999 the former Minister for Local Government announced the government's intention to develop new legislation to provide for the long-term protection of the Adelaide parklands. It is the policy of this government to ensure that any proposals reflect the government's commitment to preserving the character and amenity of the Adelaide parklands. There must be a clear and accountable mechanism—

Mr LEWIS: I rise on a point of order, sir. As the minister has acknowledged, this is her second reading speech, in effect, in response to the remarks which I have made in the course of my second reading speech and which others have made. I do not see that that is a legitimate use of the committee stage of a bill. The minister had ample opportunity to do that before we went into committee.

The CHAIRMAN: The minister is tending to draw out her comments into what could be seen as a second reading speech, and I would ask her to draw her remarks to a conclusion.

The Hon. D.C. KOTZ: I certainly have no objection to being more concise towards the end of discussing the clauses in this bill. I think I have made the points I needed to make; I am just sorry that the honourable member did not make the same allowances for me as he has accorded himself in the parliament in the past. To conclude, I will simply say that, as the member for Hammond would know, the government is committed to the future protection of the Adelaide parklands and we certainly share the member for Hammond's enthusiasm. However, if we are to develop laws which will ensure the protection of what are the unique treasures of the Adelaide parklands for future generations to enjoy, we must do so in the spirit of cooperation with today's generations. I believe that the community shares the government's vision for the parklands, and I certainly look forward to introducing legislation that will achieve the outcomes we all desire. I have previously made a ministerial statement to that effect, discussing the intent and nature of the draft legislation that we hope to introduce in the next session.

Clause passed.

The CHAIRMAN: The question is that the schedule stand as printed; I believe the ayes have it.

The Hon. D.C. KOTZ: Divide!

The CHAIRMAN: There appears to be some confusion.

The Hon. D.C. KOTZ: I withdraw that, sir.

Schedule passed.

Mr ATKINSON: I rise on a point of order, sir. I take it that after a member calls 'Divide' and if that member wishes to reconsider, you will always entertain that request for reconsideration, whether they be a government or opposition member.

The CHAIRMAN: The chair is of the opinion that that has previously been the case and will continue to be the case.

Title passed.

The House divided on the third reading:

AYES (20)

Atkinson, M. J.	Bedford, F. E.
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Foley, K. O.	Hanna, K.
Hill, J. D.	Hurley, A. K.
Key, S. W.	Koutsantonis, T.
Lewis, I. P. (teller)	Rankine, J. M.
Rann, M. D.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
White, P. L.	Wright, M. J.

NOES (22)

Armitage, M. H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L.	Ingerson, G. A.
Kerin, R. G.	Kotz, D. C.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J. (teller)
Olsen, J. W.	Penfold, E. M.
Scalzi, G.	Such, R. B.
Williams, M. R.	Wotton, D. C.

PAIR(S)

Breuer, L. R.	Venning, I. H.
Geraghty, R. K.	Brokenshire, R. L.

Majority of 2 for the noes.

Third reading thus negatived.

SOUTH PACIFIC WHALE SANCTUARY

Mr HILL (Kaurna): I move:

That this House supports the creation of the South Pacific Whale Sanctuary.

It gives me great pleasure to move the motion standing in my name. I will not speak at great length because I know that we are busy going through a lot of business this morning. It would be appropriate if this House today were able to support this motion unanimously, as our colleagues did in the other place earlier last week. As members would know, a whaling conference was held in Adelaide last week and, unfortunately, the proposition put by the federal government to create a South Pacific whale sanctuary was defeated on the basis of some intensive lobbying and, perhaps, some corrupt practices by the Japanese delegates.

Some interesting reports have appeared in the press about how certain delegates from the West Indies were pressured unfairly by the Japanese to change their vote and, as a result, the proposition to have a South Pacific whale sanctuary was defeated. I personally believe that is a great tragedy and a great shame because the irony is, of course, that the whales that would be protected by that sanctuary are protected for part of the year when they are off the southern coast of Australia, but when they travel to the north of Australia they are no longer protected. At the moment the whales have only a half-hearted protection.

It is unfortunate that the Japanese industry is gearing up to begin a commercial harvest of whales. The Japanese arguments about cultural values, and so on, are interesting and, while I respect and appreciate Japanese culture very much, there are some elements of all our cultures that we must sometimes learn to live without and, in the Japanese case, this is one of those elements.

All Australians, particularly young Australians, and I guess all young people in our kinds of communities, hold whales in a very special place in their heart. They are very deeply grieved by the thought that whales are hunted and slaughtered for commercial purposes—for food.

The current exploitation of whales by the Japanese and Norway for scientific purposes is, as we all know, a farce, anyway. If they take so many whales for scientific purposes, I cannot imagine how many they would take if they were given a go-ahead to harvest commercially.

I refer members to the debate in the other place where many of these issues were canvassed at greater length. I hope that all members would support this motion.

Mr MEIER secured the adjournment of the debate.

SALISBURY EAST UNIVERSITY CAMPUS

Ms RANKINE (Wright): I move:

That this House condemns any move by the University of South Australia to sell off the Salisbury East Campus for purely commercial and housing development and calls on the government to withdraw approval for any sale of this property that does not comply with or honour the general commitment that this campus be retained for educational, training or community benefit.

In moving this motion, I want the House to recognise the importance of the open space and recreational facilities to the people of Salisbury, that the facility was established as an education and training facility, that it was paid for and developed by the taxpayers of South Australia, and that ownership of this facility was transferred to the University of South Australia in good faith that the purpose for which it was established would be honoured. I am very proud to represent a large portion of the Salisbury community. It is a very decent and supportive community. In many areas, they are quite disadvantaged, and they cop quite a lot out there. However, that should never be taken mistakenly to mean that it is a weak community; it is a very strong and determined community.

There are some issues for which they will not roll over, some issues that they just simply will not accept happening to them. We have seen that over a number of years in relation to the Cobbler Creek Recreation Park, which the people in Salisbury fought for over 20 years to have established. The people of Salisbury East fought for 20 years to have a neighbourhood house established. They rallied very strongly when Vodafone wanted to establish a tower in their local park. They would not cop it, they did not cop it and they fought very strongly. This is one of those issues where members of my community will not lay down. They will not accept their university campus being turned into a housing development. There are a number of reasons for this, and I will just go through them. One of the objections has to be on a purely planning perspective basis. Preservation of open space in a densely residential area is extremely important to the community of Salisbury.

We have to recognise that this campus is bounded by Main North Road, Smith Road, Gloucester Avenue and the Cobbler Creek. It is sited next to the Salisbury East High School and the Tyndale Christian College. A housing development in this large area of land would pose enormous traffic problems to that area. Where would the access be provided? It could not be on Smith Road or Gloucester Avenue, both of which are extremely busy roads already catering to traffic far in excess of their capability. Regardless of whichever government has been in office, there has been a policy to restrict as far as possible access to and from Main North Road. Over many years, there has been a policy to close off residential access along Main North Road. That in itself will pose a real dilemma should this proposal go ahead. The university was originally established as a college of advanced education. It has always been an education and training facility, and it is where our teachers from the northern suburbs receive their education and training.

This facility was paid for and developed by the taxpayers of South Australia, and it was an acknowledgement that higher education to young people in the northern suburbs was a real possibility. In fact, the Salisbury campus had the highest participation of local students of any university campus in South Australia, while at the same time the northern suburbs had one of the lowest overall post-secondary education rates. This was recognised when the University of South Australia Act was developed, and a great deal of credit goes to the member for Ramsay, the Leader of the Opposition (the Hon. Mike Rann) in developing that act. He was the minister at the time, and he knew only too well the disadvantage being suffered by young people in the northern suburbs, both in education and in employment opportunities. However, he also recognised that there was a vast pool of talent out there that needed only to be given a fair go.

The member for Ramsay recognised that there was a lack of real will by tertiary institutions to work at attracting students from the northern suburbs. So, in preparing the act which covers the University of South Australia, two very important provisions were inserted in that act in relation to the functions of the university. Section 5 of the act provides:

(1) The functions of the university are as follows:

(c) to provide such tertiary education programs as the university thinks appropriate to meet the needs of Aboriginal people; and

(d) to provide such tertiary education programs as the university thinks appropriate to meet the needs of groups within the

> community that the university considers have suffered disadvantages in education.

And the list goes on. Quite clearly, the university chose to ignore those provisions when it decided to close that campus. In fact, a letter from the regional heads of government agencies to the member for Ramsay in April 1994 not only made that point but went on to say:

> Public transport is relied upon by many students in the region. Travel to The Levels—

and we were told the courses would be transferred to The Levels but we now know that did not happen—

> would be more difficult for students. Travel to other campuses such as Magill or Underdale will be impossible for many in both cost and time. Examples include students already travelling long distances such as from the Barossa Valley and students travelling with children whom they have placed in the Salisbury campus child care centre.

So the regional heads of government agencies in the northern suburbs recognised—quite appropriately—that young people from as far away as the Barossa Valley would be suffering as a result of the closure of this campus.

The local MPs in that area were aware also of the adverse impact this closure would have. Our community knew what would happen and, most importantly, the students knew. Our community was left feeling betrayed by the university through the closing of this campus. They felt that their commitment to the campus had been dishonoured and the great deal of faith that had been put in the university also had not been honoured. When the ownership of this campus was transferred to the university it was done so in good faith that the purpose for which it was established would be honoured. Well, it was not. Again, in the letter from the regional heads of government agencies, the chair said:

> While the group acknowledges the need to rationalise physical resources within the university, it has grave concerns about the planning processes, the lack of consultation with interested parties in the region and the potential reduction of educational services for the region.

I would like to highlight that quote; it is very important with regard to the planning processes and the lack of consultation. I would say that that lack of consultation continues. It is fair to say that, if the university had been honest about its intention at the time, the government would not have expended taxpayers' funds on establishing the new TAFE facility in the centre of Salisbury. The Salisbury East Campus would have been an ideal site but, again, that is history. That is yet another example of just how this whole saga has been handled.

When the university's intentions became clear, once they were out in the open, the member for Ramsay moved a motion in this House in April 1994, as follows:

> That this House oppose the policy of withdrawing courses from and the eventual closure of the University of South Australia's Salisbury Campus and call on the university to maintain its legislative commitment to access and equity by maintaining bachelor and high degree courses at the campus.

The government had an opportunity at that stage to do something, but what did it do instead? It negated that motion. An amendment was put forward that left out 'opposes the policy of withdrawing courses and from the eventual closure of the University of South Australia Salisbury campus', and another small portion which, in effect, negated the intent of the whole motion. After all of that had gone on, the government either was naive enough to believe that the university was not going to close the courses (and I have already read into *Hansard* the quote of the minister at the time saying that in fact the university was not into the business of flogging off that campus or getting rid of it) or it simply did not care.

We now know what has happened. Community groups have systematically been removed from the campus. We no longer have sporting, football, softball or cricket clubs using those facilities. The swimming pool sits empty and stagnating. We no longer have active seniors groups using the facilities, and our young children no longer have access to the gymnasium—and the list goes on. That valuable resource has stood vacant since the end of 1996.

It seems to me that the university planned from the very first to close the campus and to flog it off. However, the legislation provided a safeguard for the community but a hurdle for the university. Under the legislation, it needs the Governor's approval to sell or lease that land. As we now know, cabinet has given that approval and so has the Governor, but there are provisos to that approval.

I want to know how it affects the proposal now, and that is where the community concern stems from. We in the Salisbury area are not philistines. Already some of the land has been sold to the Tindale Christian School to enable it to expand its facilities—a real community and valuable use. The Salisbury council has been given a portion of land in which to develop the Salisbury East neighbourhood house. They are real and proper uses for that land, but my community does not want and will not accept housing development on that land. It does not want and will not accept carving up of its open space simply to help the university balance its budget and a private operator boost his profits. Who will be ultimately paying for this in any case? My community lost its education facility, had to give up its community facilities and will not accept that open space now being carved up: it just is not on.

I have not seen a detailed proposal by this developer. I understand the Salisbury council has and that it is concerned, but again that indicates a lack of consultation and a lack of advice to local interested people. In the past week there has been a flurry of calls to my office since I raised this matter. It seems that a number of people now want to talk to me.

This parliament has one more chance. We all have one more chance—a chance for this parliament to take a stand, a chance for this government to reinstate some credibility with the community of Salisbury. It has to ensure that this proposal complies with the provisos placed on any sale agreement by the Governor. If it does not comply, the government cannot allow this to proceed. This facility was built, paid for and developed by the South Australian community for the South Australian community. It should remain a facility that provides real and substantial benefits to our community. We can ensure that this happens by supporting this motion, by ensuring that this facility is protected from purely commercial and housing development and that it can only be used for educational, training or community benefit.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I do not support the motion. I am surprised that the member for Wright has not done her homework. Had she bothered to get in touch with the university, she would have found that the Governor, in granting approval to the university to sell the Salisbury campus, placed two conditions on it, namely, that the university receive a fair and reasonable market price, being no less than the Valuer-General's valuation at the time of the sale and, secondly, as the honourable member raised (and probably the most important condition in terms of residential

use of the site), that 'any such contract being subject to the property rezoned to mixed use'.

The issue is that, in rezoning it as mixed use, it cannot be used entirely for residential use. The point which the member is missing again—and which she would not have missed had she bothered to get in touch with the university—is that the purchaser of the property is currently negotiating with Nastech,the losing bidders for the site, who are currently working with them in terms of coming to an agreement to lease the buildings on the site. Nastech would shift from the old Playford High School site to the Salisbury campus to run its training and educational program at the Salisbury campus.

The member says that she has talked to the Salisbury council, which is concerned. The Salisbury council, the purchaser, and the University of South Australia are working together in terms of this PAR to change it to mixed use. I had discussions with the Salisbury council on this issue, probably not long after I became minister, and the Salisbury council at that stage was very keen to come to an agreement with the university that the council would maintain all the open space area to preserve that for the community and would pay for the cost of that maintenance, and Nastech, another training organisation or other interested purchasers would take over and maintain the buildings.

I think the Salisbury council has very high morals in this area in terms of what it wants for that land. While some of this land will probably be put under housing by the purchaser, the Salisbury council will keep a very close eye on exactly what is and is not allowed.

Also, the honourable member overlooks or forgets the fact that when courses were taken away from this campus it was during the time when the Hon. John Dawkins, federal Labor Minister for Education, was in the chair in Canberra. The amalgamation and funding policies for universities of that minister and that federal Labor government were things that drove all universities in terms of amalgamations of their sites; it was because of the funding that they were receiving from the federal Labor government at that stage. To say that the University of South Australia is the villain in all of this is quite wrong.

Since 1996 the University of South Australia has been looking for a purchaser who would operate an educational facility on that site. It has now been looking for some four years to try to get a person or group to promote an educational facility there. How long is it meant to hold on to this land in order to do something with it? If Nastech can negotiate with the developer and ensure that it takes over the buildings on the site (and I hope that works out because it will be an excellent use for the buildings on the site, along with the community radio station that is there and other community bodies still there), it will be a good outcome for the buildings on the site, as they will still be used as an educational facility. I expect that Salisbury council, in terms of approval of a residential development that might go onto that site, will keep a very close eye on it in terms of maintaining a level of open space for the site that the community would want and desire.

The university in that case will end up with a win-win situation, whereby you have an educational facility on site and they have been able to sell the site after having held it for four years looking for a purchaser who could use it for an educational facility. The House must remember that it was a state Labor government in October 1992 that transferred this site freehold to the University of South Australia. As an example of the federal Labor government policies of the 1980s, I only have to look at how Roseworthy College in my electorate was affected at that time.

It could not maintain itself as a separate entity and came under the wing of Adelaide University. There was a great amount of angst about that in the local community, because Roseworthy College at that time had been a separate entity for over 100 years but, because of federal government policies under the Hon. John Dawkins and funding to universities, it was obvious that it could not continue in that vein. Salisbury campus and the University of South Australia and the amalgamations that went on at that time are part of that federal Labor government policy.

I believe that the two conditions that have been imposed on the sale—first, in receiving a fair and reasonable market price being no less than the Valuer-General's valuation at the time of sale and, secondly, any such contract being subject to the property being rezoned to mixed use—protect the community in that all the land will not go under as residential land.

There will be open space left there for the community, as there should be and, if the current negotiations are successful, the buildings on the site will be used for an educational facility by a very good training organisation in the northern suburbs.

Mr HAMILTON-SMITH secured the adjournment of the debate.

MOBILE PHONE FACILITIES

Adjourned debate on motion of Ms Ciccarello:

That this House calls on the Minister for Transport and Urban Planning to immediately review the Development Act 1993 and regulations to provide for greater control over the installation of mobile phone facilities in order to minimise the impact on local communities, with due regard given to—

(a) consultations with local councils;
(b) appropriate guidelines for community consultation;
(c) setting minimum distances from sensitive areas, which includes schools, kindergartens and hospitals;
(d) opportunities for collocation;
(e) visual impact on the local amenity;
(f) clear definition of a transmitting station;
(g) the effect of the Telecommunications Act, particularly in relation to low impact mobile phone facilities; and
(h) the preparation of a ministerial PAR for mobile phone facilities to provide clarity in the development plan.

(Continued from 6 July. Page 1689.)

Mr HAMILTON-SMITH (Waite): I support this motion in principle, and in detail to a point, with some reservations as I will explain. I make the point that the minister on an ongoing basis is reviewing such arrangements as noted in this motion and giving considerable consideration to the concern in the community about mobile phone towers.

The honourable member's motion talks about consultation with local councils, which is a very important part of that interaction between the government and the community. The motion talks about appropriate guidelines for community consultation; about setting minimum distances from sensitive areas, which includes schools, kindergartens and hospitals; and about the opportunities for collocation of mobile phone towers.

It gives consideration to the visual impact of these towers on the local amenity for communities; seeks that the minister define what a transmitting station actually is; and concludes by suggesting that the minister might look at preparing a special PAR for mobile phone tower facilities to provide

clarity in the development plan. Those are very worthwhile claims, and I share with the member for Norwood a concern about this in my local community.

I know that many of my constituents would reflect the views that the honourable member has foreshadowed in her motion. In the seat of Waite we also have problems with mobile phone towers. We have an application before us at present in relation to premises on Goodwood Road, on the former Tom the Cheap supermarket site (now operating as a supermarket and pharmacy), to put a tower on the front of the building's superstructure.

We have also had problems in the broader Mitcham area with a range of mobile phone tower applications that have led to members of the community getting together and discussing the matter at public meetings, making their feelings very clear to the local council and the local member (both me and my predecessor, the Hon. Stephen Baker). We have listened very carefully, taken those concerns to the minister, discussed them at length with the local councils and, generally speaking, an outcome has been achieved.

The problem that the member for Norwood has raised is very complex. As its core proposition it has the concern that there is a danger to the community from these towers; that there is some sort of radiation threat to adults and children; and that there may in years to come be found to be some ongoing impact on people's health. We simply do not know: the experts are not agreed on this.

There has been quite an international and national debate. The fact that we do not know for certain that the radio emissions from these towers are dangerous to health in the short, medium and long term has confused the issue, because we cannot say, 'Look: these things are a risk to people.' We think they are, and I must say that personally I have considerable sympathy with the member for Norwood on this.

I have a concern that they may be an ongoing health risk and that in years to come we may find that we have a repeat of the tobacco crisis where, in 20 years' time, it is suddenly found that there was a long-term risk of damage. It may be that in 20 years' time we find class actions being taken out against the people who construct these towers, looking for some form of compensation.

On the other hand, it may turn out to be proven that there is absolutely no risk, that the community was at all times quite safe and that these mobile phone towers are something that we as a community can live with. We simply will not know until time has passed, until more information is available and more data is there for us to assess.

That having been said, there is a very real concern in the community, and that concern must be listened to. I think the member for Norwood has echoed that concern in the points that she has raised. The member for Norwood, being a former mayor and a member of the ALP, understands that governments have to be responsible; that governments and oppositions have to listen to all the community, and that everyone has rights.

The community that has concerns about radio emissions needs to be listened to, but the owners of buildings (whether they be churches or privately held properties) who, as a consequence of commercial consideration, seek to run their day-to-day business by erecting these towers on behalf of telco companies, also have a right to be listened to. They have a right to enter into commercial negotiations to erect mobile phone towers on their buildings. In the absence of any firm proof that there is a risk, they have a reasonable argument that they should be left to enter into such arrangements, and any responsible government, opposition, and council will also give those people a fair go.

That points back to the issue I raise: that we simply are not certain about the level of risk posed by these towers. That presents lawmakers, legislators, local government officers and elected members of parliament with a real dichotomy. The opposition and the government, because they are responsible, will listen to all the parties and give everyone a fair go. It is a shame that the Australian Democrats do not always take that view. They frequently follow whatever squeaky wheel happens to be making a noise at any point in time, ready to say what any particular local group wants to hear without the broad recognition that this is a complex issue, that everyone needs to be given a fair go and have their argument heard and that, at the end of the day, we need to come up with a reasonable and fair outcome for everyone. I am pleased and reassured that the member for Norwood, being a member of a responsible opposition, recognises that that community consultation needs to go on.

That leads me to my next point. The tenor of the honourable member's proposition is that the minister should leap in with a special ministerial PAR to override council planning guidelines and clarify what should or should not be allowed in respect of mobile phone towers. I am sure that the minister will give that proposition fair and due consideration whilst maintaining respect for the right of local government also to be involved and have the power to approve such development applications.

We would not want to see a situation—and I am sure that the opposition being as responsible as it is would agree with me—where state governments simply dictated to local councils what they should or should not do and took away their flexibility to look at local circumstances and considerations. I am sure that the opposition will join with the government in wanting to preserve the right of local government to be an active and vibrant player in the community consultation process.

In summary, I support the motion. I congratulate the member for Norwood for bringing this issue forward. I advise the House, that by and large, my constituents agree with the concerns raised by the honourable member. I, personally, am committed to ensuring that there is no threat to my community from these towers. I will actively seek information, guidance and advice as it becomes available. I am sure that other government members share my concern that the number one issue involves the safety and well-being of our constituents. I think this motion points in that direction.

The Hon. D.C. WOTTON (Heysen): The member for Waite has said much of what I was going to say, so I will only speak briefly on this matter. I, too, indicate my support for the motion that has been introduced by the member for Norwood. The debate is interesting. There are many in our community who are concerned for all sorts of reasons, whether they be aesthetic, health or other reasons—I will discuss those later—and who just do not want to see these towers, but people in other parts of the state where the facilities to enable people to use mobile phones are not available would give anything to have these towers. The construction of these towers is a significant issue throughout my electorate and the Adelaide hills. The number of towers that have been erected more recently is of concern. No matter which way you turn, you see that a new tower has been erected in the past few years.

Regarding the aesthetics issue, there is a strong push to have the instrumentation on the television towers on the Summit consolidated so that we can have one tower instead of three, because they are a blight on the environment and something would be gained from doing that. This goes back to the debate that took place a couple of years ago when a proposal was put forward during the time of the previous government for a major communications tower to be built on the St Michael's site adjacent to the Summit. You would be aware of that, Mr Speaker, because of the responsibility you took on when we came to government.

There was quite a bit of support in the community for that tower, if only to provide a single facility to carry that instrumentation that is now spread over three larger towers and many of the smaller towers also. A lot of concern has been expressed over a period of time in the hills regarding high tension powerlines. Some of the larger debates have focused on that issue when new powerlines have come into the area. Some extremely strong points of view have been put forward at some heated public meetings.

I am currently aware of a significant amount of concern that is being expressed by people in the Coromandel Valley part of my electorate. There is strong opposition to a tower that is proposed for the hills face zone adjacent to the township of Coromandel Valley. Those concerns are based on aesthetics and the health issues to which the member for Waite referred. I agree that we do not know all the answers as far as health concerns go, but I tend to believe that we should be cautious about where we are going in this area until some more studies have been completed.

As the member for Waite said, I think all members of the House are now aware—certainly, members on this side are—that the Minister for Transport and Urban Planning in another place, the Hon. Di Laidlaw, is doing a considerable amount of work in this area. I have had ongoing discussions with her, and she is very much aware of the concerns and the difficulties in the community. I believe that it is only a matter of a very short time before we will see a new PAR introduced or amendments to PARs which will address many of the issues raised by the member for Norwood. I will work with the minister to ensure that that happens, and the government will be very supportive of those changes when they are introduced. As the member for Waite said, all the issues that have been addressed by the member for Norwood in her motion will be supported by many people in the community.

I know that there has been a considerable amount of difficulty associated with the responsibilities that local government has in this area. Certainly, as far as the community is concerned, there is a strong belief that we need appropriate guidelines for community consultation. I support the motion which is before the House and which has been introduced by the member for Norwood, and I am hopeful that it will be only a short time before this matter is addressed through the appropriate planning procedures resulting in positive action being taken in regard to the issues that the member for Norwood has brought before the House.

Ms CICCARELLO (Norwood): I thank members for their support of this motion. This issue is and has been a serious concern to many of our local communities. As I indicated in my previous speech, this is not about stopping the introduction of new technology, because we all welcome and support it. This is about proper planning and ensuring that, when telecommunication companies, carriers, or whoever else is involved, want to install their network in local communities, it should be done on a properly planned basis taking into consideration the needs of local communities.

I deliberately stayed away from health issues in this motion because, again, as I have indicated, this is about proper planning and allowing for proper consultation and guidelines to be set in place for the installation of the technology. However, as has been alluded to by the member for Waite, we must bear in mind the health issues and the long-term effects. We do not know: perhaps the health issues are real, perhaps they are perceived but, notwithstanding, we must ensure that when we put something in place we will not be regretting it in five, 10 or 20 years.

I commend the motion to the House. I thank all members for their support and also the minister for her support in looking at changing the development plan.

Motion carried.

DOMICILIARY CARE

Adjourned debate on motion of Ms Stevens:

That this House condemns the government for the stress being caused to elderly people by the introduction of charges for domiciliary care services and calls on the Minister for Disability Services and the Ageing to take immediate action and report upon—

(a) the lack of community consultation on the introduction of fees;
(b) the confusion caused by misleading public information, the complexity of pamphlets and ad hoc changes;
(c) the lack of clarity and difficulties in establishing eligibility for waivers;
(d) statements by elderly people that they are cancelling essential services and returning equipment because of the introduction of fees; and
(e) the compound financial implications for elderly people with the introduction of emergency services taxes, charges for dental services and charges for domiciliary care.

(Continued from 6 July. Page 1691.)

The Hon. DEAN BROWN (Minister for Human Services): I oppose the motion and, in so doing, I will refer to the response given by the Minister for the Ageing and the Minister for Disability Services in another place. That minister, who has responsibility for domiciliary care services, has prepared material dealing with the specific issues raised in the debate. I know the minister is very concerned, indeed, about the extent to which there has been an attempt to create a fear campaign concerning these charges and about how a lot of the claims made are spurious. I will give the House the response of the minister in another place.

There are four metropolitan domiciliary care services, namely, eastern, western, southern and northern. Domiciliary care in country areas is provided through local hospitals and health services. The range of domiciliary care services is very diverse. It includes personal care, home care, assistance with shopping and therapy. Domiciliary care services also provide a wide range of equipment from walking sticks to electric scooters, shower chairs and home modifications.

For many years, some fees have been charged by domiciliary care services based on an hourly rate of $3 for pensioners and $6 for other clients. The total collection of fees is approximately $255 000 per year. There has been no uniformity in the practices relating to fees. For example, a number of country services have been rather more active in collecting fees. Most domiciliary care clients, however, have not been asked to pay fees or make any contribution to the service. The origin of this government's decision to introduce

a new fee regime lies in the decision of the federal government in its 1996 budget. Domiciliary care services in South Australia are partially funded through the commonwealth-state Home and Community Care (HACC) program.

The federal government announced in its 1996 budget that, in calculating its contribution to each state to the HACC program, the commonwealth would assume that 20 per cent growth of funds would be derived from consumer contributions by the year 2000—which is where we are now. HACC is an especially important program in South Australia because of our ageing population. Failure to introduce fees would mean a significant future cut in the program. Many HACC programs are delivered by non-government organisations, and the South Australian government did not impose a requirement on all organisations to introduce fees. For those that did, certain principles were adopted, namely: no person who is genuinely unable to make a contribution should be denied a service because of his or her inability to pay; any fees regime should allow for a waiver of fees in cases where a client is unable to pay; and moneys raised by way of fees would be used to expand services and not for the purpose of capital projects and the like. They were the three principles laid down by the state government for non-government organisations.

In July 1999, the Royal District Nursing Service (RDNS) introduced fees. RDNS, which is one of the state's largest non-government providers of services, adhered to the principles just outlined. In May 2000 the Minister for Disability Services announced that fees would be introduced for domiciliary care services. The level of fees was set at $5 per service ($8 for non-pensioners) and $2.50 per item of equipment ($5 for non-pensioners). The fees have been capped at $20 per four week period irrespective of the number of services or equipment provided. That is a cap of $50 for non-pensioners.

I stress that the cap of $20 per four week period includes any fees for services and any fees for equipment. The fees are consistent with the RDNS schedule of fees. A waiver of fees is available to people who spend on average $19 a week on health and related care items. Again, this level was adopted by the RDNS. Metropolitan domiciliary care clients were sent brochures outlining the new arrangement. They were designed to provide clients with a simple explanation of the new scheme. Although they state that the fees were capped, there was confusion about whether the cap included services and equipment. This matter was rectified and all clients were provided with additional explanatory material.

In order to give clients time in which to apply for a waiver of fees, the Minister for Disability Services directed that no fees would be incurred until October in respect of the first billing period, which is 1 to 28 September. It is regrettable that the opposition chose to suggest that the new domiciliary care fees were associated with the GST: this was false. As explained above, the origin of the fees went back to the federal budget of 1996 and in any event fees themselves do not attract GST.

Some sections of the media have briefly taken up the opposition inspired fear campaign. For example, one gentleman in a wheelchair was interviewed and claimed that he would have to pay $86 per month to receive services and equipment. This story was still being run after it was well known that his contribution would be capped at $20 per four week period. So, the claim was that they would be paying four times more than they would actually have been paying in reality.

The member for Elizabeth made a number of claims in her speech of 11 July, and I will touch on some of those claims. First, she said that the department had established a hotline and that the hotline had received 12 000 calls. I think the honourable member will agree that she made that claim.

Ms Stevens interjecting:

The Hon. DEAN BROWN: The honourable member has confirmed that she claimed that there were 12 000 calls to the hot-line. In fact, the actual number of calls received between 29 June, when the issue first arose, and 10 July, which was earlier this week and therefore after the period about which the honourable member made her speech, was 1 767. So, the honourable member has exaggerated to the tune of about six times the number of calls actually received.

Ms Stevens interjecting:

The Hon. DEAN BROWN: I am just highlighting to the honourable member that once again she has made claims in this parliament that are entirely false, and not just at the margin: she gave a figure that was six times more than the number of calls actually received. She also said that only four people were answering these calls. Although initially four people were answering the calls, in fact, three additional operators—

Ms Stevens interjecting:

The SPEAKER: Order! The member for Elizabeth can respond when she sums up the debate.

The Hon. DEAN BROWN: In fact, three additional operators were put on after a very short period of time.

Ms Stevens interjecting:

The SPEAKER: Order! The member for Elizabeth will remain silent.

The Hon. DEAN BROWN: So, she was out almost by a factor of two—or 50 per cent wrong. Her next claim—and this is from the person who as the shadow minister claims to know the facts—was that there are 20 000 domiciliary care clients. In fact, in November 1999 a domiciliary care review interim report was prepared, and I am sure that as shadow minister the member would have read that report. It is interesting, because that report shows that the number of clients in the metropolitan area is 6 587, so again the figure is about a third of what the honourable member claimed.

Time expired.

Ms STEVENS (Elizabeth): That was quite an interesting speech from the minister, and I would like to refer to a significant part of it. First, he always gets personal when he is on shaky ground—and is he ever on shaky ground in relation to this motion. I urge all members of the parliament to dispense the minister's reply to the wastepaper bin, where it deserves to go.

I will run briefly through his very spurious points in relation to these fees. I made all these issues very clear in the speech I made this time last week. First, yes, these fees did originate from a federal government budget decision in 1996; I said that last week. Yes, these fees imposed by the federal government did assume a 20 per cent growth by 2000, and failure to introduce fees would have caused reductions in HACC funding in certain circumstances.

The point of my motion is that the government has had four years to get this right. It had four years to work out with its agencies how these fees would be imposed but, instead of that, it left it to the last moment and informed the people concerned two days before the fees were to be imposed. That is what has caused the problem out in the community. The minister talks about the 'clear brochure'. That brochure was

a disgrace; it was complex and confusing, and people panicked when they read what they had do. It is astonishing that the minister here in this place and his counterpart had the gall to stand here and say that was a well presented and clear brochure. That is beyond doubt.

I now refer to some of the pathetic points that the minister made at the conclusion of his speech. The information about the calls was passed on to me by the chair of a consumer advisory group for northern and western domiciliary care. The point is that there was an enormous number of calls, and they did not have the capability to handle those calls, as the minister admitted. So, rather than come in here and try to pick on me for tiny little details, perhaps both ministers might look at the overall case, and that is that they stuffed this up; they caused incredible stress and confusion out in the community; and they caused that amongst some of our most vulnerable citizens. This did not need to occur. It happened because of their incompetence and insensitivity.

Perhaps they should have taken a leaf out of the book of the Royal District Nursing Service, which did the right thing, had a proper process, did consult, took it carefully and over several months, got the process right and ensured that people knew what would happen and how to get waivers; and did know that their services would not be cut off. That is what you should have done, minister; you should have done the same as RDNS. However, you did not do so, and now you are trying to cover your tracks by blaming the Labor opposition for your own incompetence. Let us put the blame for this where it lies, and this pathetic performance in this House just emphasises how weak you are.

The SPEAKER: Order! I ask the honourable member to address her remarks through the chair.

Ms STEVENS: I ask everyone in this House to support this motion on behalf of those people out in the community who bore the brunt of this, especially in the light of that pathetically weak explanation that has just been given by this minister.

The House divided on the motion:

Members interjecting:

The SPEAKER: Order! The observation from the chair was that the honourable member entered the chamber after the doors had been locked and I ask the member to withdraw.

Members interjecting:

The SPEAKER: Order!

AYES (20)

Atkinson, M. J.	Bedford, F. E.
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Key, S. W.
Koutsantonis, T.	Rankine, J. M.
Rann, M. D.	Snelling, J. J.
Stevens, L. (teller)	Thompson, M. G.
White, P. L.	Wright, M. J.

NOES (23)

Armitage, M. H.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M.L.(t.)	Ingerson, G. A.
Kerin, R. G.	Kotz, D. C.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Olsen, J. W.

NOES (cont.)

Penfold, E. M.	Scalzi, G.
Such, R. B.	Williams, M. R.
Wotton, D. C.	

PAIR(S)

Breuer, L. R.	Venning, I. H.

Majority of 3 for the noes.

Motion thus negatived.

The SPEAKER: Order! Once again I ask members to clear the floor in the centre of the chamber. I ask the members for Bragg, Hart and Colton to do so now. Order! Members are completely ignoring the chair. I ask members to clear the floor. There is plenty of opportunity around the sides of the chamber to have conversations.

WHYALLA AIRLINES

Adjourned debate on motion of Ms Breuer:

That this House expresses its sympathy to the families and friends of those people killed in the Whyalla Airlines crash on 31 May and extends its gratitude to the police, emergency services and other services involved in the massive search following the crash.

(Continued from 6 July. Page 1691.)

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): As I said in the short time available to me during the debate on this motion previously when private members' business was being considered, I did keep in constant contact with the member for Giles, particularly in the week following this tragic event. Clearly, in these cases it is important that ministers and local members communicate to ensure that the local member's community is getting all the support and services it requires. I want to place on the public record my appreciation of the contact and consultation I had with the member for Giles.

As I said last week, the member for Giles very thoroughly covered the sequence of events, the issues and the people involved in connection with this disaster in terms of support during the search for survivors. Whilst people are getting their lives back together as best they can after such a tragedy and trauma, on a regular basis the emergency services people are combing the beaches, in particular, on four wheel drive motor bikes and on foot hoping that they still may be able to find Mr Schuppan who, sadly, has not yet been found. I place on record my sincere appreciation of all of the hard work, support, commitment and professionalism of all those involved in the circumstances surrounding this tragedy.

The situation also indicates to me that, as I said last week, we will have to investigate whether we can set up a capital works program for an expansion of a disaster centre in Whyalla. The location of the centre right next to the marina is ideal. I hope that we would never again have to use this centre but, having said that, the reality is that the volume of boating and air traffic crossing those waters requires that we must be ready and prepared. I acknowledge, subject to budget constraints, that we must look at such a proposal, and I will further work through this with the local member in the near future. This tragedy also emphasised to me that it is so important that we continue to fund the emergency services properly.

The emergency services has 30 000 volunteers. As I have said on many occasions in this chamber, as a community we would be in a real mess if it were not for those volunteers. No matter what may be the state of a government's budget, we

could never pay people to do this sort of work: it would be impossible. What we must do, not only as a government but as members of parliament, is to ensure that we adequately resource, support and train these volunteers, and that is why I am so committed to increasing spending in this area. We need a quarantined and dedicated funding budget, because these people do need the facilities.

An example of that, of course, was the bus. I know, as does the member for Giles, that for some time there was a saga over the payment in connection with the bus, and I was pleased to be able to sort out that issue. That bus, in an area as isolated as Whyalla and its surrounding areas, plays an important role. I have seen at first hand now the vital need for communications, a mobile kitchen and support facilities for all those people who must, from time to time, travel to isolated areas in all sorts of weather conditions to set up a mobile disaster centre. This tragedy was heart-wrenching for everyone involved but I was pleased to see how well those services worked together and supported each other, and as an example I refer to Family and Youth Services.

I also place on the record my appreciation to the Manager of the Family and Youth Services and the other agencies which were not necessarily specifically involved in the search and rescue operations but which were involved in trauma counselling and support of the families and loved ones who were waiting desperately for news, which, in the end, was not good for the people concerned, for the Whyalla community or for South Australians.

I also know how much this affected the whole of South Australia. Many people from right across the state have spoken to me about this matter, and I know that the member for Giles will take that back to her community as well. As tragic as this disaster is, it shows community spirit and how South Australia, even though it is a big region, is a close-knit one. Indeed, even Adelaide is like a large country town. It is these sorts of circumstances that pull the community together.

After having a look at this incident, I wrote to the federal minister regarding life jackets and life rafts. I received a letter from the federal Minister (Hon. John Anderson) saying that he has asked that the air safety bureau now further investigate the issues around life jackets and life rafts, even though internationally it is said to be unnecessary. In particular, South Australia has one real reason why life jackets and life rafts should be on all aircraft, and that is the amount of water that we have to cross here, probably more so than any other state.

It has been pointed out previously that in remote and regional parts of South Australia the only opportunity they have of being able to access the city is by air. It is not expensive to put life jackets and life rafts into an aircraft. When I was flying on the police plane, the life jackets were right next to our seats. The police have made their own decision to carry life jackets, because they will not take risks. If it is good enough for police not to take risks, it is good enough for all airlines not to take risks.

The Hon. R.G. KERIN (Deputy Premier): I support the member and other speakers in what they have said. It has been a very difficult time for a lot of people, and I congratulate the member Giles on the role she has played. It has not been an easy time for her, having known some of the people personally. The way in which she has managed this and helped a lot of the families and the people of Whyalla has done her great credit.

This was a horrible experience for everyone concerned. It touched all South Australians, particularly many communities and families who were either involved with or knew other people who were involved in the accident, and certainly a lot of individuals have been affected by what happened.

I support the member and the minister in their thanking all the police and emergency services people involved. It was an extremely difficult job. It is good to hear so many commendations coming from that community and the families involved about how the whole matter was handled with great competence, how some real compassion was shown and how extremely professional the police and other emergency services people handled this matter. Many words have been spoken about that. I will not be repetitious but I endorse everything that has been said, and we can be very proud of all those involved.

I went to the service in Whyalla with the Governor and the Premier. It was a moving service, and it was an honour to attend it. A lot of people attended the service. There was a very hushed atmosphere, as well as a great feeling of camaraderie that people had been drawn together by what was a bad experience for everyone. A feeling of support came out of the entire crowd there. Mayor John Smith spoke brilliantly at that service. Great credit should go to John, as Mayor, for leading the community through that very difficult time. He did so with great composure and certainly showed some terrific leadership; he spoke extremely well at the service, as did the Premier, who gave the people of Whyalla a great feeling that the rest of South Australians also cared.

One of the highlights of the service was the talk given by Father Paul Bourke, who I felt really summed up things in an appropriate fashion. He had a great understanding of what was going on and of what the families were going through. In a short and concise speech, he really summed up the way people felt and no doubt gave the families a great feeling that everyone being with them.

Throughout the congregation there was a great sense of peace. From talking to a lot of family members afterwards, I found that they had been helped enormously not just by emergency services but by all those around them who helped them to understand that everyone was with them. Coming out of those families there was very obviously an appreciation of the way in which people had understood and supported them. The level of support within the Whyalla community was absolutely exceptional.

I thank the member for putting forward this motion. I commend her on the part that she has played, and the whole House would hope that Whyalla can pick up from here. A terrific feeling has been created within the community, and I have no doubt that they can now capitalise on that and move ahead in perhaps even a newfound spirit of togetherness and unity.

Ms BREUER (Giles): I appreciate the comments made today by the ministers and the support they were able to give in the search process. I also appreciate the support that we received in Whyalla from the South Australian community and, indeed, from the Australian community. Although it was very much needed, it was very much appreciated by us all. Certainly, the support from the ministers here has been very important for us.

Unfortunately, these tragedies seem to be coming more and more common in Australia and, indeed, in the world. Until you are involved in one, you do not realise how far-reaching they are and the consequences of them. It is very

easy to hear about a tragedy and think, 'That is sad,' and then you go on living. But for us in the Whyalla community good has come out of it. As the Deputy Premier says, we have grown much closer as a community as we have had a very difficult time in the past two for three years because of issues that have been happening there, particularly with BHP leaving the community. It has certainly done our community a lot of good, and we have learnt much from it.

South Australia has also learnt a lot from it in that, if a similar tragedy was to occur again, we would know a lot of things that had not been thought of before that need to be looked at. I support the comments made about the need for support services. They were very important in this whole process.

I have great admiration for the police force in South Australia and certainly for members of the police force in Whyalla in the role that they played. It was interesting for me to know that they are not hardened people we are led to believe they are. They also have feelings and they have felt it as deeply as anyone else. I appreciate the support that we have received.

My sympathy still goes out to the families, particularly Mrs Schuppan, because we have not been able to find her husband. I hope that from here on in our community will go ahead. We feel much stronger as a community. I thank everyone again for their support, and I commend the motion to the House.

Motion carried.

COMMON YOUTH ALLOWANCE

Adjourned debate on motion of Ms Thompson:

That this House expresses its concern that many young people returning to schools as a result of the obligations imposed by the Common Youth Allowance are not having their educational, social and vocational needs met by the programs which currently exist and notes that the impact of this can be damaging to schools, teachers and other students as well as to the young people themselves.

(Continued from 1 June. Page 1369.)

Mr HAMILTON-SMITH (Waite): I oppose the motion and advise the House, in case all are not aware, that the youth allowance to which the member for Reynell refers replaced Austudy and Newstart. It was means-tested on parents' income. To receive it, one had to be in full-time education or training. The member for Reynell, in her motion, expresses her disappointment that people in her area are returning to school, going back to educational or vocational training, as a consequence of youth allowance.

Ms THOMPSON: I rise on a point of order, Mr Speaker. The member seems to have misread my motion. It does not express that at all.

The SPEAKER: Order! There is no point of order. The member will have an opportunity to reply when she sums up.

Mr HAMILTON-SMITH: Thank you very much, Mr Speaker. The motion expresses the concern that many young people are returning to schools. The government makes no apology for creating an opportunity for young people to go back and advance their education, and to equip themselves with the skills that they need to go out there and be successful in their future lives. The government takes great pride in its youth allowance scheme. We believe not in undermining family values by throwing money at young people to encourage them to leave home but in financial incentives which bring families together and which focus on efforts designed to get young people to be all they can be and to get parents supporting children back into schools. We think that the youth allowance is a right and positive step in that direction.

I appreciate the sentiment of the member for Reynell's motion. I know it its well intended but, when you look at the construction of it and what it is trying to achieve, you see that it really does not add up.

Debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

PROSTITUTION

A petition signed by 38 residents of South Australia, requesting that the House strengthen the law in relation to prostitution and ban prostitution related advertising, was presented by the Hon. D.C. Kotz.

Petition received.

HOME INVASION

A petition signed by 15 901 resident of South Australia, requesting that the House urge the government to increase prison sentences for persons convicted of robbery with violence of residential property, was presented by the Hon. M.D. Rann.

Petition received.

POWER SUPPLY

A petition signed by 204 residents of South Australia, requesting that the House ensure a reliable power supply to the Paralowie, Bolivar, Waterloo Corner, St Kilda and Virginia areas, was presented by Ms White.

Petition received.

LIBRARY FUNDING

A petition signed by 90 residents of South Australia, requesting that the House ensure government funding of public libraries is maintained, was presented by Mr Williams.

Petition received.

EMPLOYEE OMBUDSMAN REPORT

The SPEAKER: I lay on the table the report of the Office of the Employee Ombudsman for the year 1998-99.

ENVIRONMENT PROTECTION AUTHORITY

In reply to **Mr HILL (Kaurna)** 13 April.

The Hon. I.F. EVANS: I am advised that the Executive Director of the EPA visited Jurlique and Spring Smoked Seafoods on 30 March 2000 to discuss their concerns, as directed by the Environment Protection Authority. The Executive Director was accompanied by a member of the authority.

The executive director did not at any time allude to future decisions that might be made by the authority.

EPA officers have visited businesses in the Mount Barker industrial zone and have discussed the concerns of the businesses. At no time have any EPA officers made statements regarding any future decisions that might be made by the authority.

EPA officers are well aware that the Environment Protection Authority is an independent body and while the authority takes advice from the agency it will only make a decision when it is satisfied that it has all the relevant information.

EPA officers cannot and do not pre-empt decisions of the authority.

I am further advised that the chairman and one other member of the Environment Protection Authority visited Jurlique and Springs

Smoked Seafoods on Thursday 13 April in order to fully appreciate the concerns of both businesses.

NATIONAL WINE CENTRE

In reply to **Mr WRIGHT (Lee)** 27 June.

The Hon. J.W. OLSEN: The recently completed review of the National Wine Centre accounts was undertaken in order to determine the exact status of the accounts presently administered by the Department of Administrative and Information Services, prior to their transfer to the Department of the Premier and Cabinet at the start of the 2000-01 financial year, and to identify the level of funding required for the period prior to opening.

I advised the chairman of the proposed review and the chairman agreed that he would provide his support and co-operation.

The matters raised in the member's questions did not form part of the review process.

SYDNEY OLYMPICS

The Hon. J.W. OLSEN (Premier): I seek leave to make a statement.

Leave granted.

The Hon. J.W. OLSEN: With the Sydney 2000 Olympics just 64 days away, I take this opportunity on behalf of all South Australians, and I am sure all members of parliament, to wish all our athletes competing in the games the very best of luck. South Australians can be justifiably proud of their record when it comes to sporting achievements. I am confident that, come the time of the Olympics, once again South Australians will do not only the state but their nation proud. We are finding that the games are increasingly becoming Australia's games, not just the Sydney games. I am sure we are all feeling the excitement of the Olympic spirit of endeavour and friendship as the Olympic torch relay makes its way across the state towards Sydney.

No doubt the lead-up to the final selections for the 2000 Australian Olympic team will be an exciting time for many young Australians. It will provide opportunities for more than 40 South Australians to become members of an Australian Olympic team, competing on their home soil for the first time since 1956. The Olympic team selection announcements have been occurring progressively since table tennis announced its team in October last year. There are still 13 teams to be announced in the remaining period leading up to 27 August, when the Australian equestrian team announcement will conclude the Olympic selection process. The latest team announcement was the Australian men's hockey team released earlier this week in Perth. South Australian striker Craig Victory, 20 years old, is the youngest member of that squad. He is widely known for the stand-out red shoes he wears during competition.

The Australian cycling team selections are expected to be announced on 23 July. I make mention of some of our Olympic athletes who will be competing in the games. Phil Rogers, now 29 years, has represented Australia for more than a decade. He has withstood the pressure of Olympic selection trials for a third time to become the senior athlete of the Australian swimming team. Rogers won a bronze medal in the 100 metre breast stroke at Barcelona in 1992 and bronze in the 4 by 100 metre medley relay in Atlanta in 1996. Sarah Ryan won a silver medal at Atlanta in the 400 metre medley and a gold medal in the 4 by 100 metre freestyle relay at the Kuala Lumpur Commonwealth Games. She was an outstanding performer in Sydney in May this year and will represent Australia in the 100 metre freestyle event. Ryan Mitchell from Port Augusta, the first South Australian Olympic athlete to carry the Olympic torch following its arrival in South Australia, will be competing in his second Olympic Games in the 200 metre breast stroke event.

Kate Slatter won gold at Atlanta in the women's pair rowing event and is preparing for her third Olympic Games. Members might be interested to learn that Kate is a member of the board of the Royal Adelaide Women's and Children's Hospital and is the United Nations High Commissioner for Refugees in Australia.

Deserie Wakefield-Baynes, mother of two children and winner of a bronze medal at the Atlanta Olympic Games, lives and works on their property in the state's mid-north near Jamestown. Deserie was inspired by her father, an accomplished clay target shooter.

Chris Rae is an outstanding 20 year old super heavyweight weight lifter and Commonwealth Games gold medallist from Morphettville, who has won Olympic selection despite suffering serious knee injuries and recovering from surgery in the past 12 months.

Brett Maher is arguably the most complete guard in the Australian backcourt rotation, and this will be his second Olympic Games. With respect to Paralympic selections, these are still to be announced. South Australia has 30 athletes across a range of sports on the Paralympic Preparation Program squad, most of whom we expect to qualify, with many being realistic medal prospects. The team announcement will be made on Thursday 27 July.

From those selected, and those still to be selected, there are high expectations that South Australians will not only be well represented at the games but will continue the proud history of successful performance at the ultimate level of sporting competition. One has only to reflect on the current performance of our national teams and athletes in the sports of basketball, hockey, rowing and cycling to feel optimistic and confident about the prospects of South Australian athletes playing a significant part in medal winning performances.

The South Australian Sports Institute has played a significant role in the development and training of these athletes over the past two Olympiads through the provision of high performance coaching, services, facilities and competition opportunities. I take this opportunity on behalf of all South Australians to wish our Olympians and Paralympians the success they deserve. I know that, no matter the result, they will do South Australia proud indeed.

QUESTION TIME

PENGILLY, Mr M.

The Hon. M.D. RANN (Leader of the Opposition): Why did the Minister for Police, Correctional Services and Emergency Services advise the Chairman of the CFS, Mr Michael Pengilly, that he would not reappoint Mr Pengilly to the board because he had not done enough to support and promote the emergency services levy, given that the board's task is to govern the CFS as an effective firefighting service, not act as a public relations unit? Mr Pengilly has written an open letter to CFS members saying that, despite his name being put forward by the Local Government Association as its priority nomination, the minister telephoned him to inform him that he would not be reappointed to the board. Mr Pengilly, who is President of the Kangaroo Island branch of the Liberal Party and President of the Finniss Electorate Council wrote:

The minister claims the board and myself have not—

Members interjecting:

The SPEAKER: Order! Members on my right will remain silent.

The Hon. M.D. RANN: They do not seem to want to hear what Mr Pengilly wrote.

The SPEAKER: No, just get on with your explanation.

The Hon. M.D. RANN: In his letter, which has been circulated to CFS members, Mr Pengilly wrote:

> The minister claims the board and myself have not done enough to support the emergency services levy and is planning 'changes to the board'. I very strongly make the point that it is the board's role to provide governance to the Country Fire Service and to disperse the funds provided to it in an efficient and effective manner, something the board has endeavoured to do in the best interests of the service and South Australia. It is not, has not and, indeed, should not be a public relations unit.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): As we often see in this House, the Leader of the Opposition speaks with forked tongue. Members should look at what the Labor Party did for the CFS: it left it with a $13 million debt. It left it under-funded and under-protected—

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The leader knows the standing orders.

The Hon. R.L. BROKENSHIRE: The Leader of the Opposition and the Labor Party had an opportunity when they were in government to look after the 17 400 volunteers and to fund, equip and train them properly. But what happened—the Labor Party neglected them. We are not neglecting them, and that is why we are funding and supporting emergency services.

Mr FOLEY: I rise on a point of order, Mr Speaker. Following on from what you just said about the standing orders, standing order 98 states that the minister must answer the question and not debate the matter.

The SPEAKER: Order! There is no point of order.

An honourable member: He's debating it.

The SPEAKER: Order! The chair will decide whether a member is debating an issue.

The Hon. R.L. BROKENSHIRE: As I said, we are committed to the CFS, we are supplying it with the right equipment, and we are funding it properly and taking it down the track that it has called for for a long time. Interestingly enough, the Leader of the Opposition complains when jobs are given to mates of the Liberal government—

Members interjecting:

The SPEAKER: Order!

The Hon. R.L. BROKENSHIRE: —he also complains when jobs are not given to mates of the Liberal government. What is his complaint? For six years, this person has been a member of the board, and he has done a good job. That position has now expired and a new position is being made available.

Members interjecting:

The SPEAKER: Order! Before calling on the next question I say generally to members that, if they expect me to pick up points of order, they can remain silent so that I can hear members when they are on their feet.

Mr LEWIS: I rise on a point of order, Mr Speaker. I ask you to give the House a considered opinion, not in respect of any particular question but relevant nonetheless to the general situation as it relates to the interpretation that we must place on standing order 98.

The SPEAKER: Every week or two, at some time or other, the chair gives a detailed explanation of its interpretation of standing order 98. I refer members to those statements that I have made. The way in which I interpret standing order 98 is clear. During question time when the occasion arises, I will interpret the standing order at that time and relate it to the specific questions asked.

SMALL BUSINESS

Mr SCALZI (Hartley): Will the Premier tell the House what the government is doing to assist small businesses in South Australia to encourage them to take on more employees?

The Hon. J.W. OLSEN (Premier): The government's strong commitment to business in this state has created a conducive business environment and, as a result, we have seen the enhancement of the economy in South Australia. Our commitment to small business has been shown through a range of schemes which have been put in place to assist in lowering costs and encouraging employment growth. There are more than 70 000 small businesses in this state which support a lot of families and many employment opportunities have been generated through those small and medium businesses.

The government provides a WorkCover levy exemption and payroll tax rebate for 12 months to employers who take on young people under the age of 21 years. It provides up to 20 hours of subsidised human resource consultancy services to meet the employment and human resource needs of small businesses. A subsidy of $4 000 per trainee or apprentice has been provided, and we have seen a significant expansion of the number of apprenticeships and traineeships over the past few years from a few thousand to just under about 30 000, which I think was the last figure I saw. That is a massive increase in the number of apprenticeships and traineeships. Clearly, this is needed to meet the emerging needs of business as the economy continues to grow and expand.

In addition, we provide training and small grants to assist people with innovative and viable business ideas to establish their own businesses. We have an export market planning division to help firms to examine whether they are ready for export or, if they are already exporting, to provide a review of export activities. There is also the payroll tax rebate scheme, which includes a 20 per cent payroll tax rebate on wages for employees currently employed on exporting activity, and a trainee wages payroll tax rebate scheme, which is 80 per cent of payroll tax rebate on wages paid to trainees under the age of 25 years with approved training schemes and apprenticeships. That gives an indication of the raft of schemes that are in place.

In relation to the reduction of costs, as has been previously announced, as a result of good management we see WorkCover, which previously had unfunded liabilities, come to a fully funded scheme, and from 1 July there will be a 7.5 per cent reduction in the cost of WorkCover for small and medium business enterprises. That means $25 million is being retained by those small and medium business enterprises—a very significant reduction in their operational costs—and with the commitment that next year, provided that the rates of claims continue on a path that we have seen in recent times, there will in fact be a further reduction of a like amount in terms of the cost of WorkCover to small and medium business enterprises. From that, it can be clearly seen

that the government does have a very real commitment to support small business and to reduce its costs of operation.

I contrast that to the Labor Party and simply pose the question: what is the Labor Party's policy relating to small business? What is the Labor Party's policy in relation to reducing the cost to small business? We have had no indication of a policy, an idea or a vision for small business and its future. We cannot even get from the Leader of the Opposition his position on the current round of GST debates on opposition or Labor Party policy. I pose to the shadow treasurer: if the leader will not tell us, will the shadow treasurer (the member for Hart) tell us his policy on GST?

I did happen to notice in the *Advertiser* today a photo of the member for Hart. It was one of those up close and personal photographs, a bit like when you are caught out like a rabbit in the spotlight—the two eyes were well focused.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: I know that Minister Kotz had heard some commotion, because what we had was the member for Hart running down dead-end corridors. He was actually scurrying away from the media. It was an interesting exercise, because right next to him was John Della Bosca.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: It was no wonder—

Mr CONLON: I rise on a point of order, sir.

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat.

Mr CONLON: I simply refer to the earlier comments made by the member for Hammond in relation to standing order 98.

Members interjecting:

The SPEAKER: Order! I uphold the point of order and ask the Premier to come back to the substance of the reply.

The Hon. J.W. OLSEN: The substance of the reply is about how we get costs down on small business. In relation to John Della Bosca's policy, is it rolling forward or rolling back the GST? It is one step forward and one step back; I am not sure which one it is. I want to know from members opposite, where we have consistently supported the abolition of wholesale sales tax on small business, what about the Labor Party in this state? Does it support John Della Bosca's new position, his now recanted position, that is, that we will have a roll-back of the GST?

That can mean only one thing, that is, a reduction in the revenues to South Australia. If there to be a reduction in the revenues to South Australia from GST, what will members opposite do in terms of continuing to reduce costs for small and medium business enterprises in this state? That is the nub of the question. There is a very clear contrast between what we have delivered and the policies we have had in place and the absolute confusion of an ALP's looking for a policy as it relates to small and medium business enterprises. That can be no better demonstrated than by the ALP's national debate on GST and the silence in South Australia from members opposite on any policy, let alone that related to GST.

I simply pose the question to the leader or the member for Hart: what is your position on GST? Do you support Kim Beazley or do you support Della Bosca? Perhaps we ought to go to some journalists, because we know, for example, what the member for Hart's view really was about leasing ETSA. He did not put it on the record, but I wonder whether a few journalists made notes, as Maxine McKew made notes about her discussion with John Della Bosca. I wonder whether there are a few journalists' notes as to the truth of the matter of the member for Hart's view about the ETSA lease. I wonder whether some of those journalists' notes might come out one day in an article which puts the truth of the matter.

Fortunately for this state's future, two members of the other place, Trevor Crothers and Terry Cameron, put the truth down and have given respite to South Australians in the future. Their honesty is on the deck, and it is more than can be said for the silence of members opposite.

Members interjecting:

The SPEAKER: Order! The Leader of the Opposition and the member for Hart will come to order.

PENGILLY, Mr M.

Mr CONLON (Elder): What pressure did the Minister for Police, Correctional Services and Emergency Services place on Mr Pengilly and the CFS board to promote the emergency services levy, and does the minister have full confidence in all the current members of the CFS board?

The SPEAKER: Order! Photography is not permitted in the gallery.

Mr CONLON: In Mr Pengilly's letter he pays tribute to longstanding members of the CFS board, stating:

> Their wise counsel and strength of mind in the face of accommodating radical change in the formation of the Emergency Services Administrative Unit and the introduction of the emergency services levy is testament to their determination and commitment not to be shifted from their responsibilities under the Country Fires Act.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I simply say again that the presiding member's term as presiding member had expired, and it has always been the case that the minister can decide whom to recommend to go on the board: it is as simple as that.

Members interjecting:

The SPEAKER: Order! The member for Bragg will come to order.

PRISONS, DRUGS

The Hon. G.M. GUNN (Stuart): Will the Minister for Police, Correctional Services and Emergency Services advise the House on the newest recruit employed by correctional services who was responsible for some of the recent drug busts at the Yatala prison?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): Yes, a new era has begun in emergency services when it comes to combating illicit drug trafficking, particularly that coming in from visitors and families of prisoners. This morning I was delighted to meet and congratulate the newest recruit who, in the short time that they have been recruiting in the correctional services area, has already been responsible for two direct drug busts. I refer to a magnificent three year old border collie known as Duracell. Duracell is already paying his way. He is about as energetic as any Duracell battery you would ever see; I watched him this morning. This dog is a passive alert dog, and will be taken through the prison systems and move among the visitors while they are waiting to meet the prisoners. The dog is highly trained in detecting drugs. I saw it for myself this morning; he goes straight up to the person with the drugs and sits immediately alongside them, and that person is then gone, obviously. This is part of

an initiative that ties in with the intelligence and investigation unit that I was keen to see launched recently.

Members may be interested to know that, in recent times, 12 packages of drugs have been detected during drug busts as a result of visitors coming into the prison system. We have detected not only marijuana, some amphetamines, and those sorts of illicit drugs, but also, sadly, heroin. These dogs are trained so that they can sniff and detect heroin that may be concealed in a package or in a syringe. We know that 70 per cent of prisoners have a drug or alcohol dependency. It is absolutely deplorable that a family member or a friend visiting a prisoner would try to bring drugs into the prisons.

There is a chance for us to be able to detoxify and rehabilitate people while they are in the prison system. That is part of the job of the department and, whilst they are doing it well, they must continually work against these people who are now running the very strong risk of being caught. We have found drugs deposited in toilets in the visitor area. We have also seen people turn around, go back outside of the prison and get into their cars. We will not stop cracking down for one minute on these people who are bringing drugs into the prison system because, as I said, it is absolutely deplorable. If they are not careful they will end up in the prison system themselves.

We have seen the panic starting to set in, and I hope that the media put out a long, clear and loud message to the community that secreting drugs into the prison system will not be tolerated and that people will be caught. Our message to visitors is simple: if you attempt to smuggle drugs into the prison system, there is an even stronger chance than ever before that Duracell and the other members of the Dog Squad team will get you.

Our government has a strong commitment to reducing illicit drug trafficking and the illicit drug trade. A cabinet subcommittee, headed by the Premier, is looking holistically and comprehensively at reducing further the amount of drugs in this state. As the police minister, I was disappointed to see an absolute lack of leadership in the upper house yesterday from both the Labor Party and the Democrats when a decision was made to actually—

The SPEAKER: Order! There is a point of order.

Mr ATKINSON: Sir, I ask whether it is licit for a member of the House to reflect on a decision of another house and to refer to debates in that place in the same session?

The SPEAKER: The chair upholds the point of order. It is well known that members can refer neither to debates in another place nor to what is happening there, even to what is in the *Notice Paper*.

The Hon. R.L. BROKENSHIRE: The Labor Party and the Democrats have supported the growing of 10 cannabis plants and the issuing of only an expiation notice. The police have been saying to me for a very long time that cannabis is a major concern to them and to the community. It leads to the use of other drugs. It also leads to criminal activity and, in fact, it tears and rips apart the social fabric of the community.

I would like to know what the Leader of the Opposition wants. What does he want? Does the leader want to roll it back, roll it forward or roll it himself? What does the Leader of the Opposition want to do? And the member for Elder? What will the member for Elder say to the police?

The shadow spokesperson for police was not present for the estimates committees, and he is clearly not listening to what the police are saying: they are desperately appealing to us to get serious and tough on drugs. Our government is serious and tough on drugs. We are serious about the social issues and repairing the social fabric that has been in decline, primarily, as a result of issues relating to illicit drugs. As a government, we will continue to fight to reduce drugs, even if we do not get support from the Labor Party and the Leader of the Opposition.

CFS BOARD

Mr CONLON (Elder): My question is directed to the Minister for Emergency Services. Will the new board members of the CFS be appointed only if the minister is satisfied that they will be strong and public supporters of the government's emergency services tax? What meetings has he held with nominees or potential candidates to the board, and do they include his longstanding friend, Mr Kym McHugh?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): As I have already said, under the act, nominations are put up by the Local Government Association and the VFBA, and that is part of the act. It is the minister's decision to make recommendations on who should come on the board and, from time to time, when people have had six years on the board, it is time for new people to come on and contribute.

RACING INDUSTRY

The Hon. G.A. INGERSON (Bragg): Will the Minister for Recreation, Sport and Racing advise the House how South Australia is leading the nation in racing industry policy development?

The Hon. I.F. EVANS (Minister for Recreation, Sport and Racing): In May I had the pleasure of going to the racing ministers ministerial council and presenting a paper on the nationalisation of the racing industry and—

An honourable member interjecting:

The Hon. I.F. EVANS: All the states are represented, as I recall. The paper I presented outlined a view that in the future we should invite members of the racing industry themselves to the ministerial councils to form a closer relationship at the national level to talk about the way that government could help the industry nationalise on a whole of Australia basis. I was pleased that the other states' representatives there unanimously agreed with the view that we should invite the national leaders of the racing industry to the ministerial council. I made an interesting observation: when the racing ministers went to the council, the only people who were not there were members of the racing industry. It seemed appropriate to me that we should invite the racing industry union to help discuss the issue and examine how we can best nationalise the racing industry. Richard Friedman of racing fame, from Friedman Brothers Inc., came along and spoke, and he supported the view very strongly that the racing industry needs to take the step to nationalise.

I am pleased to see recent announcements by the Australian Racing Board, which has set up national marketing strategies in relation to the racing industry Australia wide, with significant input from its own Racing Industry Development Authority. I know that its marketing strategy has come under criticism from some quarters, but it is interesting to note that the Australian Racing Board has used a lot of its information in developing a national strategy on marketing. I am also pleased that in the past few weeks the Australian Racing Board has announced a working party to talk about national programming of carnival dates. It seems to me

appropriate that the racing industry does develop a system of carnival dates that does not provide the clashes that exist so that it can maximise its turnover and industry participation. That sounds like a lot of commonsense.

Also I am pleased to see that Victoria is now starting to follow South Australia on some racing industry developments. Some people are saying that proprietary racing may not take off. Some people even say that other states are not interested. But it is interesting that in the past few months the Victorian Labor government has advertised seeking proprietary racing interests to operate in Victoria. It seems unusual that a government would advertise for people to register proprietary racing interests if it is not interested in developing a policy to support proprietary racing. It is interesting to note that the Victorian racing industry is following South Australia in that respect.

Also this week I was interested to see that the thoroughbred industry in Victoria has come out supporting an independent governance model for their thoroughbred industry in Victoria. I know this will strike a cord with the member for Lee, because he is a passionate supporter of the racing industry's being free to manage itself. For the House's benefit, I quote the Victorian Country Racing Council Chairman, Mr Terry Fraser, who is on record as saying that they do not favour a statutory body running racing. This is an issue of national importance—the issue of who should be running racing. We support Mr Fraser in his view that there should not necessarily be a statutory body running racing. It is no surprise that the Victorian racing industry is waiting for the Labor government to announce a policy, because the South Australian racing industry is also waiting for Labor to announce a racing policy, and there is certainly nothing new in that.

Mr Wright interjecting:

The Hon. I.F. EVANS: The member for Lee said that he announced a policy 12 months ago. Let us analyse what was announced and look at what has not been announced in relation to a Labor Party racing policy. I am glad the member for Lee interjects and gives me the opportunity. South Australian Labor has attempted on occasions to have a policy in relation to racing.

In 1996, during the debate on the establishment of the Racing Industry Development Authority, the member for Ross Smith—the then Deputy Leader—rolled out Labor's policy in relation to having a racing commission. Ralph Clarke, the member for Ross Smith, is on record as saying that he supports a racing commission, as was the Deputy Leader, the Hon. Ron Roberts, in another place, only to find in 1999 that the opposition spokesman now apparently cancelled having a racing commission. So, one minute they are going to have a racing commission and the next minute they are not.

They also talked about whether they should give the racing industry independence. I know the member for Lee is a strong supporter of the racing industry having its own independence. In May 1999 he said:

> We believe that the industry has the maturity and the intellect to administer itself. Racing can and must be given the opportunity to administer itself.

We agree with the Victorian thoroughbred group and the member for Lee: there is no doubt that racing should be given the opportunity to administer itself. In fact, the member for Lee went on to say that Labor had a plan to allow it to be the master of its own destiny and that it should be accountable and responsible for its own future. I do not know what has happened to that plan, but we cannot seem to see it.

We have also gone on and talked about a plan for how we fund the industry. The government went out and announced a $18.25 million up-front capital payment and $41 million for three years. And what does the opposition do? They bag it! What worries the racing industry are the continual comments of the shadow treasurer, the member for Hart.

Mr Foley: And it should worry them.

The Hon. I.F. EVANS: 'And it should worry them,' says the member for Hart. I am glad he says that because, although he is on record as saying that the financial deal is a generous and pretty good one, the shadow treasurer then goes on to say:

> I could not think of another group I would be more nervous about giving a no strings attached $18.25 million spend as you will.

That is the Treasurer with whom the racing industry will have to negotiate if ever a Labor government comes to the benches. The racing industry needs to get the comments of the member for Hart and analyse them very carefully: 'I could not think of another group I would be more nervous about giving a no strings attached $18.25 million.' There is no doubt that the racing industry will have a difficult time under a Labor government if the member for Hart is the Treasurer as he holds the racing industry in disdain—there is no doubt about that.

The member for Hart is even on record as debating why the government should be guaranteeing revenue over and above the $18.25 million. On the one hand the member for Lee is arguing about where is the industry safety net, and on the other hand the member for Hart comes into this place and says, 'Why are you guaranteeing an amount over $18.25 million?'

Mr Foley interjecting:

The Hon. I.F. EVANS: An $18.25 million up-front capital payment. You are on record in the estimates committee—you don't know what you said! You are on record as saying in the estimates committee that you do not know how or why the government should be guaranteeing revenue to the racing industry over and above the $18.25 million. You want to cut it off at $18.25 million, and your opposition racing spokesman wants an industry safety net. They clearly do not have a policy in relation to the financing of the racing industry. In May 1999 the member for Lee said that they had a plan: he said that Labor has a plan for the racing industry. I suggest that if Labor has a plan and policy for the racing industry, no-one can find it.

PENGILLY, Mr M.

Mr CONLON (Elder): My question is directed to the Minister for Emergency Services. Has Mr Pengilly told the truth in his serious claims about your conduct?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): There are no serious claims about my conduct. We have to look at appointments when periods of time are completed. We have done that under the act and, as I said, he has had six years on the board.

Members interjecting:

The SPEAKER: Order! You are just starting to waste your own question time now.

YOUTH EMPLOYMENT

Mr CONDOUS (Colton): Will the Minister for Employment and Training advise the House whether the unemployment figures released today provide young South Australians with confidence in gaining employment?

The Hon. M.K. BRINDAL (Minister for Employment and Training): I thank the member for Colton for his question and for his longstanding interest both in youth unemployment and in unemployment generally. The figures today provide a good window of opportunity for the young people of South Australia but, in putting the answer to this question in context, we should take a look in the rear vision mirror.

Between 1990 and 1992, in South Australia 38 300 jobs were lost under Labor. Full-time unemployment fell from 498 000 in 1990 to 465 000 in 1992, a drop of 33 100. In April 1992 when the opposition leader became Minister for Employment, the unemployment rate in South Australia went above 12 per cent. They are historic facts. Youth unemployment—

Mr Koutsantonis interjecting:

The Hon. M.K. BRINDAL: The member for Peake is interested in youth unemployment, so we will tell him about it. It peaked at 40 per cent when the Leader of the Opposition was Minister for Employment.

Members interjecting:

The Hon. M.K. BRINDAL: Yes, 40 per cent. It was a disaster. The opposition had no policy then to stimulate youth employment or, indeed, employment growth back in 1992-93, and as recently as the last estimates committee hearings the leader came in here and suggested that they were doing rather better than we were, at 12.3 per cent, because they were closer to the national average. I would rather take the less than 6 per cent youth unemployment rate.

If we look at youth unemployment as a factor in the youth population, the unemployment rate as a factor of the youth population is 5.8 per cent. That is how many people are actually looking for work. I would rather take that figure than the figures that the Leader of the Opposition had. Today, with the drop in the youth unemployment rate, we see better opportunities for young people in South Australia to get a job: better opportunities than they had last month and certainly better opportunities than they ever had under a Labor government, a Labor government that in this state wrung its hands and did nothing and now tries to excuse its actions by saying that this was the recession we had to have.

It was forced on us by whom?—by their mate Mr Keating in Canberra. Our job is still ahead of us; it is not yet finished. We say that month after month. Nevertheless, our record in each month for the past six years is miles in front of where we have come from and continues to improve—not for us but for the young people of South Australia, whom we value above the petty politics of this House.

HINDMARSH SOCCER STADIUM

Mr WRIGHT (Lee): My question is directed to you, Mr Speaker. Have you been interviewed by the Auditor-General's office as part of the investigation into the Hindmarsh Soccer Stadium? Are you satisfied that there will be no adverse finding against you when the Auditor's report comes down—

The Hon. I.F. EVANS: I rise on a point of order, Mr Speaker. The honourable member's question is hypothetical, because he is asking you to predict the outcome of a report that is hypothetical. Therefore, the question is out of order.

Members interjecting:

The SPEAKER: Order! I ask members on my right to remain silent. The chair will allow the question to run its full course. The first part of the question, as I heard it, is in order. The second part might be becoming hypothetical, but I will hear the question first.

Mr WRIGHT: —or are you, sir, concerned about reports that he will be the Olsen government's fall guy for the stadium fiasco?

Members interjecting:

The SPEAKER: Order! It is true that I was asked to appear before the Auditor-General's inquiry. I did that, I was asked some questions, and I provided information to the best of my knowledge. It is up to the inquiry, the lawyers involved and, ultimately, the Auditor-General to make a decision on the whole project. I have simply appeared as a witness. I make no further comment.

Members interjecting:

The SPEAKER: Order!

Mr Foley interjecting:

The SPEAKER: Order!

RETRACTABLE SYRINGES

The Hon. R.B. SUCH (Fisher): Will the Minister for Human Services say what progress has been made on developing a retractable syringe so that there will be fewer needle stick injuries in the community?

The Hon. DEAN BROWN (Minister for Human Services): As has been seen from the recent publicity about Football Park and other areas, there is enormous concern within the community about needles discarded by drug users. I am aware of the extent to which people become emotionally involved and concerned when a needle-stick injury takes place—and I share their concern.

I assure the public, first, that there is no recorded instance anywhere in the world of someone contracting HIV from a needle-stick injury in a public place. Therefore, the risk of this happening in a public place must be very low. However, I am concerned with the aesthetics of having discarded needles and syringes lying around in the community. For some time, I have taken up the cause of ensuring that we get a suitable retractable needle. A ministerial drug council is meeting in Perth this afternoon. On its agenda is the suggestion, which was made by South Australia, that a national approach should be adopted to developing a retractable needle suitable for use by drug users.

This is part of the initiative that I have taken up with the federal health minister and state health ministers, and I asked for this matter to be put on the agenda. The CEO of the department will argue, first, that a national standard should be established to make sure that there is a uniform product that can be used widely throughout the whole of Australia. Secondly, South Australia and Queensland have both offered to contribute some up-front finance provided the other states and the federal government come in as well so that we can develop a suitable retractable needle which could be widely used by people who inject illicit drugs in the community.

I would prefer that they did not inject drugs—in fact, I am strongly opposed to it—but, if they are going to do this, I urge them to use a clean needle and to make sure that the needle and syringe are safely and appropriately disposed of.

If a suitable 1 ml retractable needle is developed, this will be an enormous boost in helping to prevent the risk of a needle-stick injury in a public place. It is, therefore, on the agenda this afternoon. I strongly support the move. Of course, the first thing is to get the commitment of the other states and the federal government. I understand that the federal minister is also a supporter of this proposal. I have written to the federal minister. I would hope that this afternoon we achieve that support. We then need to see whether we can develop the appropriate technology. It is very difficult. In fact, there are retractable needles for a 5ml syringe and there is a retractable needle of some type for a 3ml syringe. I might add that some of the retractable syringes are not suitable because the manner in which the needle retracts does not give the protection or is too difficult to retract. One needs a needle, if possible, which shoots up the barrel of the syringe and which therefore cannot be stuck into anyone in a public place.

Mr Conlon interjecting:

The Hon. DEAN BROWN: I am hoping that over the next 18 months to two years we can develop a suitable retractable syringe which can be widely used throughout the whole of Australia.

CAMBRIDGE, Mr J.

Ms HURLEY (Deputy Leader of the Opposition): Can the Premier explain how the former CEO of the Office of Asian Business, John Cambridge, for the two years he worked under the Premier managed to fly in and out of Singapore at his own expense and undertake private work as a paid director for the Singapore based company New Toyo International when he had not used any of his annual leave entitlements during that period?

Mr Cambridge became a paid director of New Toyo International in Singapore in January 1997. He had accumulated three months of unused annual leave by May 1999, which at four weeks per year means that he had not taken leave for three years. Mr Cambridge had undertaken 14 separate taxpayer funded trips to Singapore between November 1997 and March 1999.

The Hon. J.W. OLSEN (Premier): I understand that all these questions have been answered, and that the detailed nature and volume of it has already been provided to the opposition.

TELECOMMUNICATIONS STRATEGY

Mr VENNING (Schubert): Will the Minister for Government Enterprises advise the House on the progress of the government's telecommunications strategy?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank the honourable member for his question about telecommunications infrastructure, which is really the backbone of the information economy into the future. The telecommunications opportunities provide the very foundations for the information economy and the chance for people from all around South Australia and from all walks of life to contribute to a global economy; whether that entails their selling their products and services or buying something on the internet or indeed researching communications needs, or whatever, they will need that infrastructure.

We have been struggling with that necessity for some time and all our actions have been geared towards the need to ensure that access to telecommunications infrastructure is as affordable as possible. At the moment, our total spend on telecommunications is in the order of $58 million per annum, so it is a significant expenditure from the government. The way in which we have been attempting to use this spend to drive benefits, not only for government employees but also for the public, is to arrange for a competitive and innovative procurement process which uses the money we spend on telecommunications and the existing assets as a stimulus to the companies to provide proposals which will give benefit to both employees of the government and indeed the general public.

As one result of that, I had the pleasure this morning, together with Mr Chris Anderson from Cable & Wireless Optus, of announcing that the government has entered into a contract with Cable & Wireless Optus for the provision of all government mobile phone services for a period of up to 3½ years in total. The contract is for 18 months in the first instance, with two rights of renewal of 12 months each, and represents a significant milestone in telecommunications in South Australia.

The contract provides the taxpayers with a significant cost benefit of the order of $7.5 million if the contract goes for the full three years, but as a government we will also benefit from competitive online billing, management tools and a number of other value-adds, as well as access to 24 hour around the clock service facilities. Obviously, as a direct benefit from this the community of South Australia will see increased coverage in both regional and metropolitan areas. I contend that every member of this chamber uses a mobile phone and has been frustrated at times when coverage has dropped out in more far-flung areas, and this is a way of helping to avoid that frustration which for us occurs on an intermittent basis and which for residents of regional and regional South Australia is a daily problem.

The next significant step we want to move towards is to finalise the request for proposals for the provision of a number of other services such as fixed telephony, data carriage services, internet service provision and other value added telecommunications services, and so on. The evaluation of that RFP is progressing. All South Australians will benefit from the competitive request for proposal process. A key objective is to provide a very functional, broadly based, cheaply accessed telecommunications infrastructure throughout South Australia, to avoid what is known as the 'digital divide'. The government has made a conscious decision to increase competition via these methods to encourage cheaper access and better services for all South Australians.

CAMBRIDGE, Mr J.

Ms HURLEY (Deputy Leader of the Opposition): Why did the Premier exempt the former CEO of the Office of Asian Business, Mr John Cambridge, from complying with the Public Sector Management Act, which required him to disclose the nature of his work and the payment he receives for being a director of New Toyo International? Without that information, how could the Premier be assured that there was no conflict of interest? Mr Cambridge's disclosure of his paid directorship informed the Premier only that he was a paid director of New Toyo, and gave no further information.

The Hon. J.W. OLSEN (Premier): That matter has been referred to in information that has already been provided to the opposition.

GAMING MACHINES

Mr LEWIS (Hammond): Does the Premier stand by the public statements he has made about the necessity for a cap on poker machine numbers and the private commitment he has given to the member for Gordon to have legislation dealt with this session, if it passed this chamber? If so, how does he account for the public utterances of the Treasurer, who in recent time has stated publicly that—

The Hon. M.K. BRINDAL: I rise on a point of order, sir. I believe that this bill is not yet finalised. I refer to standing order 120.

The SPEAKER: Order! I do not think the issue here is whether the debate is on the *Notice Paper* in this House or the other place. The question is really the continuation of a debate and a question which is continuing a debate that has just been completed by using a form of questioning in question time. It is this matter that I find is probably out of order. Would the member for Hammond like to complete his question?

Mr LEWIS: Yes, sir. The Premier said the following on 13 April this year:

> But we have the chance to again to right the wrongs with this amendment to place an immediate freeze on the number of machines in this state. We should, and we can.

The SPEAKER: Order! I do rule that question out of order; it is now starting to continue the debate which was completed.

WALKING TRAILS

Ms RANKINE (Wright): Will the Minister for Recreation, Sport and Racing explain why it is not possible to access Aus Trails on the internet, an initiative about which he advised the House on 28 March and which he said would bring information about South Australia's walking trails quickly to the attention of overseas tourists? The minister told this House on 28 March:

> We have also launched a new signage scheme called Aus Trails, a name we choose simply because overseas tourists, when looking on the internet or at brochures, will look up the word 'Australia' first. The name 'Aus Trails' therefore will be brought quickly to their attention and we will get more of the tourism market for those involved in the recreational ecotourism area, which to me makes sense.

On 22 March an article appeared in the media reporting this initiative. The day after this media report, and five days before the minister advised the House of this information technology initiative, the Aus Trails web site was registered by a private and well respected ecotourism operator as the government had not secured the site before it made the announcement. The owner of the Aus Trails web site, who has a legitimate ecotourism interest, has told me that, since securing this site, he has been told by an officer of the minister's department that if he did not relinquish the site they would take him to the computer court in Melbourne.

The Hon. I.F. EVANS (Minister for Recreation, Sport and Racing): This same question was raised with me in estimates committees. The honourable member has—

Ms Rankine interjecting:

The Hon. I.F. EVANS: It did relate to the Greenways bill, I apologise. The honourable member is absolutely right, for once. She has answered her own question. I am taking up the registration of the internet site with officers of the department.

EXPLORATION PERMITS

Mrs PENFOLD (Flinders): Will the Minister for Minerals and Energy inform the House of the potential benefits to South Australia with the granting of three new petroleum exploration permits in the Bight Basin?

The Hon. W.A. MATTHEW (Minister for Minerals and Energy): I thank the member for Flinders for her question: as always, the honourable member has demonstrated her continuing strong interest in the minerals and petroleum sectors in this state. As the member for Flinders is well aware, because she has been very keenly involved in following the issue of these permits, three exploration permits have been issued in the Bight Basin of the Great Australian Bight. These permits provide an exciting opportunity. It is fair to say that this area is often seen as the last frontier in this country for this type of petroleum exploration.

We are delighted that a consortium of three companies has put together a strong bid for mineral exploration in this region of our state. It is an offshore region and, indeed, the companies have put forward exploration bids that will see almost $90 million in exploration work undertaken over the next six years in the Great Australian Bight. Any discoveries that result from this exploration that we signal today will have clearly a direct effect on the Eyre Peninsula, which the member for Flinders so ferociously and actively represents in this parliament. As the member for Flinders is expecting, this will have a strong effect on the Eyre Peninsula economy through both investment and employment.

These petroleum permits have been issued as a result of a national release of offshore areas that occurred in April 1999. It involved, obviously, work between our government and our colleagues in the federal government. The three licences have all gone to the same consortium of three companies: Woodside Energy Limited, Anadarko Australia Company Pty Ltd and PanCanadian Petroleum Limited. As a result of the depth of water involved in the region, the bidders, by necessity, were companies that had considerable financial resources. The water in the region is up to five kilometres in depth, and I am told that any drilling exploration may need to go a further two kilometres underneath the ocean bed: that is seven kilometres of depth of drilling equipment, which is not an exercise without expense. The minimum guaranteed investment in the Bight region as a result of these three exploration licences is $39 million. However, the consortium expects to invest almost $90 million (in fact, $88.9 million) over the next six years. The money will be expended on things such as seismic survey work, office-based geological and geophysical surveys, and well drilling.

In discussing this issue, I think it is important that I also place on the record the fact that two of the permit areas intercept the benthic protection zone of the Great Australian Bight Marine Park. The government is clearly aware of the importance and significance of that region, and for that reason strict criteria must be observed by the exploration company in the work that they undertake. Those criteria are being overseen by the federal government through its federal environment agency. Therefore, any on-site exploration activities must have specific clearances to ensure that the values of the park are protected at all times. It is fair to say that in the benthic protection zone there are already two old drill holes, indicating that drilling has occurred in that region but before the proclamation of that park zone.

The exploration permits lie in commonwealth waters and, for that reason, they will be jointly administered by South Australian and federal governments. This government is delighted at the confidence that the petroleum industry has shown in being prepared to expend these sorts of moneys in our state, and the decision to expend almost $90 million is not a decision that is taken lightly but is one that is a display of confidence by the companies concerned. As a government we are keen to continue our support for exploration in this area. I know that the member for Flinders will ensure that the activities of this company are carefully watched and championed. I know that, in her usual way, the member will ensure that her region extracts the best possible economic value from this venture.

TOTAL EARNINGS

Ms THOMPSON (Reynell): My question is directed to the Minister for Government Enterprises, representing the Minister for Workplace Relations. What action is the minister taking to investigate the reasons for the decline in the ratio of female to male total earnings over the past six months? Since the equal pay decisions in the 1970s, the ratio of female to male earnings has steadily increased, with very little volatility being shown in the index. However, the November 1999 and February 2000 figures of 65 per cent and 65.1 per cent respectively indicate a serious decline since the November 1998 figure of 69.4 per cent, this figure being one which reflects the previous trend.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): This is a very important question. As the member has identified, the index has been volatile. I was unaware of the latest figures, and I would be happy to undertake some investigation as to why that is the case. It is definitively my view as Minister for Government Enterprises that, if that is the case, something ought to be done to fix it. I am very much of the view that in this instance women ought to be encouraged to be in the workplace rather than the reverse. That is clearly what one might infer from a falling off in the index: that there may be some discouragement. That is not something of which modern society would necessarily approve. As I indicated, I look forward to doing some research into the regions.

GRIEVANCE DEBATE

Mr KOUTSANTONIS (Peake): In the last budget the federal government decided to offer insulation to homes affected by airport noise within the electorate of Hindmarsh. The federal Labor Party moved many amendments when the member for Hindmarsh, Ms Chris Gallus, moved her private member's bill to introduce into law a curfew in the western suburbs of Adelaide, much like the one that is in place in Sydney. The Labor candidate for Hindmarsh, Mr Steve Georganis, was able to get amendments moved on his behalf within federal parliamentary Labor Party to include insulation in these houses. The surprising thing was that before the election Ms Gallus voted against insulation for these houses in her own seat in the western suburbs. Surprise, surprise! After the last federal election the seat became a marginal Liberal seat with a swing of about 8 per cent and in some areas about 12 per cent. So, the hard heads in the Liberal Party, realising that they needed to hold onto this seat, have spent $65 million of taxpayers' money to provide insulation for about 450 people's homes. They have spent $327 million in Sydney and $65 million in South Australia.

I went to a briefing with Steve Georganis, the Labor candidate, together with members of the Commonwealth Department of Transport, and they told us that the ANEF bands used to measure decibel levels are not the right way to estimate sound insulation. What has happened is that 15 000 people, on my conservative estimate, are affected directly by airport noise in the western suburbs, including Henley Beach and Glenelg North; from Thebarton right down to Underdale, Brooklyn Park and West Richmond; into the electorate of the member for Hanson, Mile End and Hilton; and even as far as North Adelaide. Of all these people affected, only about 450 homes are getting insulation.

It surprises me that the member for Hindmarsh (Ms Gallus) voted three times to try to stop insulation. She argued passionately against insulation. She thought that it was the way she wanted to go. 'I don't want insulation in the western suburbs', she said. When the seat became marginal the federal Liberal Government panicked, committed $65 million in its budget to gratify 455 people and upset another 15 000 people. We have had public meetings about this issue. The member for Hindmarsh turned up and actually tried to deny that she voted against insulation in the federal parliament. It is there for everyone to see. Divisions were called, and Ms Gallus's name lines up in the noes. She voted against insulation.

So, when Steve Georganis—as well as the member for Hanson and I—argues with the federal government that we want the same level of money spent in Adelaide as was spent in Sydney, again where is Ms Gallus? Again she falls into the column of the noes. Again she abandons her electorate. This is a member of parliament who voted against her own constituents getting insulation. When polling says that she will lose her seat she runs to the Treasurer and says, 'Please save me'. They hand her $65 million and she has stuffed that up as well. People who have lived next door to each other for 35 years have found that one house is getting insulation and the other is not. Ms Gallus is saying that one person is deserving and another is undeserving. Her newsletters are extremely misleading. Her day of reckoning is coming. She can run but she cannot hide. The election is coming. The whirlwind will arrive and that whirlwind is Steve Georganis, because he will do to her what she did to us in 1990.

Mr VENNING (Schubert): I was honoured this morning to attend the commemorative service and plaque unveiling at Kapunda. Kapunda is the birthplace of Sister Vivian Bullwinkel, and hundreds of people were at the ceremony. Of course, there was an air of sadness, because Sister Bullwinkel was very much looking forward to being at the ceremony this morning, not so much for her own recognition but more importantly for the recognition of the second world war nurses who gave so much for their country. As we all know, sadly Sister Vivian Bullwinkel died last week in Perth and it became a commemorative service paying tribute to a wonderful life.

This lady was indeed a wonderful person. My greatest concern is that I did not ever meet her. She must have been a lovely person—the epitome of the magnificent profession of nursing, in peace and in war. She was a humble person who did not seek notoriety and lived to serve, but she got the

notoriety by doing just that through the wonderful profession of nursing. I had never previously heard the nurses' prayer, which was quite emotional.

Mrs Ita Buttrose, known to us all as the National Chairperson of the World War II Nurses Recognition Memorial Trust, spoke fondly of Sister Bullwinkel, an inspiration to everybody. Behind this tribute is the memory of the terrible massacre of nurses during the war on the Isle of Banka, when all the nurses there were killed except one, and that was Sister Bullwinkel, who was the only survivor. She was presumed dead by the Japanese enemy. If it were not for her miraculous survival we would not have known about the massacre and, more importantly, would not have had the benefit of observing the magnificent life of Sister Vivian Bullwinkel. Other speakers included Mayor Des Shanahan, who paid tribute on behalf of the local community. Minister Dorothy Kotz made a wonderful speech and I told her so a few minutes ago. It was delivered by Ita Buttrose because, as well all know, Minister Kotz was required for parliamentary duties. If I have time I will quote a portion of it. Then we had an oration from Mrs Olive Weston, AOM, OOA, JP, a former nursing sister seconded to General MacArthur's staff during the second world war from the 12th Army Hospital.

After the unveiling of the plaque, the Governor, Sir Eric Neal, as always, paid a very fitting tribute, including a personal touch for the children. It was an emotional time and the peace that came over that area at the end of the main street in Kapunda was very evident. Many of the people, most highly decorated, came from all over Australia and most came from the state funeral in Western Australia of Sister Vivian Bullwinkel and went straight to Kapunda this morning.

It was chilly standing in the breeze, but it probably served to add to the atmosphere of the occasion. The crowd included a group of highly decorated people and most were women. We had an excellent roll-up of locals, old and young alike, all proud to be part of the Kapunda community in which Sister Bullwinkel was brought up. I know that, when Chas Smythe first came to me about two years ago and suggested that we should do this, I thought, 'Who is Sister Vivian Bullwinkel?'. I thought it was an unusual name and I wondered why I had not remembered it. This morning was a credit to him and the committee chaired by Mr Ron Tuckwell. It all went very well indeed.

The Salvation Army provided the excellent music and we had two rousing hymns, sung with great gusto, and two anthems—Advance Australia Fair but, more importantly, the anthem of God Save the Queen. If you could lift a tent in the open air we certainly would have. I thought the occasion was very fitting to mark the life of a remarkable woman, serving in a profession we all take far too much for granted, the profession of nurses working not only in peace but also in war. I pay the highest tribute to Sister Vivian Bullwinkel and express to her family and friends our heartfelt thanks and condolences.

Ms BEDFORD (Florey): I was not born in South Australia, but I was very touched to hear the story of Sister Vivian Bullwinkel. How honoured the member for Schubert must have been to be at the ceremony today and to be with people who knew this very remarkable woman. I am glad that the honourable member had the opportunity to speak on this matter, and I very much endorse his comments on Sister Bullwinkel. I will speak a little about her for those who do not know of her. Very few of us it seems knew very much about Sister Bullwinkel.

As the honourable member said, she died at the age of 84 on Monday 3 July and was given a state funeral because of the life that she had led and because of her bravery in the Second World War. In the article in the *Advertiser* this week, Jeff Turner spoke of her in glowing terms as the Weary Dunlop of her gender. As the member for Schubert said, she was on a ship that was taking a group of women who were being evacuated with some soldiers from Singapore, but I will go into that a little later.

Part of her history was that her family moved to Broken Hill, which I did not know before I read this article, and she began her training there as a nurse. It was the start of her lifelong passion: an interest in caring for others. Hers is a truly remarkable story. She worked as a nurse first in Melbourne, where she volunteered for service in May 1941, and sailed off to Singapore, as many of them did, into who knew what. Of course, all our young men were doing the same sorts of things, but the women went over to look after the nursing side and to care for those who would inevitably be wounded.

Sister Bullwinkel treated wounded soldiers in Singapore until the Japanese took over and evacuation was ordered. At the time, she said, none of them wanted to go. They could not imagine leaving the boys behind and just walking out on them. We can only imagine the terror of the times and the uncertainty of what lay before them. Almost 300 nurses, civilians and children were crammed on a refugee ship, the *Vyner Brooke*, that sailed for Australia. Unfortunately, it was all too late, as a Japanese aircraft caught up with the ship and sank it.

Most of the passengers drowned, but a group made it to nearby Bangka Island, part of Indonesia. Unfortunately, the Japanese had already landed there. The next day they were joined by British soldiers who had escaped from another sunken ship. Now there were 100 people on the beach. Local villagers were too scared to assist these people. About 20 civilian women and children split from the group and a British officer went off to find the Japanese so that they could surrender.

When the Japanese arrived, they took the men at gunpoint around the bluff. Minutes later, shots rang out, and they knew that none of the men would survive. The women were told to march out to sea and were mown down by machine guns. Fortunately for Sister Bullwinkel, she survived that wound, but around her she could hear the bayonetting of the women on the beach. She pretended to be dead and, thankfully, survived. All in all, 82 people were killed that day on the beach.

Sister Bullwinkel staggered up to the jungle where she stayed for a couple of days until she came across a British soldier whose name was Kingsley. He was wounded and she tended his wounds, and the pair of them, 10 days later, gave themselves up. The next chapter of her life is when she spent time in the prison camps.

After the war she continued her commitment to service and worked at the Heidelberg Repatriation Hospital in Melbourne, nursing soldiers who had returned from the war. Later, as the member for Schubert said, she became Matron of the Fairfield Hospital in Sydney. Sister Bullwinkel spent most of her life trying to make sure that the story of that day was told, and she gave evidence at the Japanese war trials. The article in the *Advertiser* states:

> . . . she was not seeking revenge. Rather, the words were some attempt to honour the lives of the nurses who died beside her that day, and others who endured the horrors of wartime imprisonment.

Sister Bullwinkel was instrumental in making sure that a memorial was raised on the island of Bangka in 1992. She went there to select a suitable place for the memorial for her colleagues. In 1993, with relatives of the dead nurses and her late husband, Frank Statham, she helped dedicate the plaque. Last year, to coincide with the dedication of the Australian Service Nurses Memorial in Canberra, she donated the uniform that she wore in 1942 and her diary.

We on this side of the House pass on our condolences. Sister Bullwinkel is survived by her stepson and stepdaughter. Her husband died in December last year. Her remarkable life is an example to us all. Among many honours, she was awarded the Order of Australia and the MBE. Unfortunately, she died of a heart attack before she could attend the service at Kapunda.

Mr SCALZI (Hartley): In recent weeks we have been made aware of this state's success in the reduction of tobacco consumption. I commend the government and this parliament for the legislation that we have passed in that regard. As we all know, about 19 000 people a year pass away from tobacco-related conditions. I am concerned about sending the wrong message to the community with regard to another form of smoking, that is, ecstasy cigarettes.

They are a herbal cigarette and contain ingredients such as passion flower, love and emotion, and they sell for about $10 a packet in some of the adult shops. I am concerned because they are advertised as ecstasy cigarettes. We are all aware of ecstasy the drug, and I am not suggesting that these herbal cigarettes contain ecstasy. However, it is of concern that there is an association with the name. Members might be aware that on 24 January this year the *Advertiser* noted 'Ecstasy cigarettes are being sold illegally to minors in city stores'. It has been brought to my attention that ecstasy cigarettes are still being sold, and I would like to read a letter from a constituent, Mr David D'Lima, which states:

> It has come to my attention that certain so-called adult shops are advertising the sale of ecstasy cigarettes. They are so-called herbal cigarettes being sold for about $10 a packet. These do not contain the drug ecstasy but, given the number of deaths due to the drug, it is morally unacceptable for shops to sell these cigarettes, associated in name at least with the drug ecstasy. I ask that you raise this matter in the parliament, bearing in mind the biblical injunction that civic authorities commend those who do right and punish those who do wrong.

I am pleased to bring this to the attention of the House, because we are all aware of the number of deaths that have taken place in South Australia and indeed in Australia as a result of the drug ecstasy, as well as throughout the world. We know the harm that ecstasy does amongst our young people and, sadly, that trend is increasing.

Imagine if one of our loved ones were to fall victim to ecstasy. I am not suggesting that these herbal cigarettes have ecstasy, but they are sending the wrong message. The figures indicate that up to January 1997 there were six ecstasy related deaths in South Australia alone, in two years. This included death from paramethoxyamphetamine, PMA, which is similar to the drug ecstasy but more toxic. We know that at different times when other drugs are not available the use of ecstasy increases, putting our young people in danger.

It is totally irresponsible of these so-called adult shops to promote herbal cigarettes under the name of ecstasy. I ask the Minister for Human Services to look into this matter and make sure that there is not confusion between ecstasy and herbal cigarettes.

Time expired.

Mr WRIGHT (Lee): The poor old racing minister did it again today. Every time he speaks about racing he compounds the basic problem; that is, that he knows nothing about it and there is no public policy position on the government side. The minister came in here today doing a dorothy dixer from the government and talked about Labor policy, Labor initiatives that were brought into this parliament some 12 to 18 months ago, and correctly stated that, as part of a policy initiative, we said 12 to 18 months ago with regard to setting up structures within the racing industry, that we wanted the racing industry to be the master of its own destiny.

What we were about was setting up a structure which was fair for the racing industry and which gave it the opportunity to participate on the various controlling authorities for those codes. That is the fundamental difference between Labor and the government. In trying to address what we initiated over 12 months ago, the government set up a structure which allowed the top end of town to put in place whom they wanted to play the various roles in forming the controlling authorities for the respective codes. When the minister brought the bill into this parliament, he did not allow us to debate that particular item because it contains no reference to the constitution and the controlling authorities.

The minister told only half the story when he quoted what was said in this parliament 12 to 18 months ago. So, there is a significant difference. Also, regarding the structure of the racing industry, he tried to compare what was happening in Victoria with what was happening in South Australia. A furphy seems to have been going around in the past few days about Victoria following the lead of South Australia. Do members believe that Victoria, which is probably the biggest racing state in South Australia, where racing is booming, would copy what we are doing in South Australia? Of course, that is a nonsense. The minister's staff have let him down. In today's Melbourne *Herald Sun*, the minister is quoted as saying:

> I have a genuinely open mind on these matters and, at the end of the day, I will not be proceeding with any restructure unless all stakeholders have been properly consulted.

This is exactly what Labor is about in South Australia: that all stakeholders participate in the process and that we have an accountable process in the establishment of controlling authorities—but the government is directly opposed to that.

The minister does himself and his government no service by quoting what the member for Hart, the shadow Treasurer, said during the estimates. On that day, the government published a press release from the Racing Codes Chairmen's Group, and it paraded that group as representative of the racing industry. So, of course the member for Hart responded to that press release put out by the Racing Codes Chairmen's Group with respect to those figures. I echo the comments of the member for Hart on that day because, if the minister or any member of the racing industry thinks that we will trust the SAJC with racing industry money in the light of the way it has performed over the years, they can think again.

That is what the member for Hart was responding to: a press release which was trotted out by the government and the Racing Codes Chairmen's Group—and the government said that this group represented the racing industry. Of course, that is not true. If these numbers, which the Minister for Racing

is talking about today are so good, where is the bill? The minister has withdrawn his own bill. The opposition does not have the power or the capacity to withdraw the bill; the minister has done that. In terms of the bill to privatise the TAB, if the numbers to which the minister refers are so good for the racing industry, where is the bill for us to debate and where is the bill on TeleTrak? That is nowhere to be seen either.

Let me say that the opposition, just as it did with corporatisation, is looking forward eagerly to the time when the government reintroduces its bill on the privatisation of the TAB and its bill on Teletrak, which is 12 months overdue. We look forward to those bills very much.

Time expired.

The Hon. G.M. GUNN (Stuart): A most interesting article, which appeared in the *Adelaide Review* of July 2000, has been drawn to my attention. This article puts together a jigsaw puzzle of which I think the House should take note. It states:

In their cosy style, Wiese and Ashbourne recently chatted about the state budget and what an onerous task it presents for reporters. Ashbourne corrected his friend, saying that all the journalists tended to write the same thing—so they must be getting it right somehow.

'You'll find from today's coverage that there's not a great deal of difference between. . . well certainly between the *Age*, the *Financial Review* and the *Australian*, Channel Seven and other media outlets,' Ashbourne explained.

But of course some media were more sanguine about the state's economic recovery than the ones Ashbourne highlighted. They didn't rate a mention.

We're not quite sure what the *Financial Review* did to be listed in such elevated company but there are some interesting links between the other organs—links that neither Ashbourne or Wiese made comment upon.

The *Age* was an obvious reference point because it is where the part-time ABC commentator works. So we shouldn't be surprised at similarities in the budget opinions of the *Age* and Aunty, should we?

But Ashbourne, of course, is the very same man who helped run Mike Rann's last election campaign. What a special insight the ABC's audience receives when it hears political assessments from a Labor political staffer, one poll-removed.

Then there's the national daily. Its Adelaide bureau is headed by another former Bannon staffer, Terry Plane. Plane is a great mate of Rann's and a former employer of Ashbourne's. Cosier and cosier.

Ah, but Ashbourne did mention Channel Seven didn't he. Seven's coverage also fitted the mould. Well, again there are links. Ashbourne and Plane are both former Seven employees and Plane was succeeded there by another ex-Labor staffer, current news director Chris Willis.

Willis and Plane cut their teeth in the Premier's Office with Mike Rann in the 1980s, plotting the rise and rise of John Bannon. Now, with Ashbourne, they oversee the state political content of the *Age*, the *Australian*, and Channel Seven, with input into Messenger Press and, of course, the ABC. The chattering classes should perhaps be reminded that this 'gang of four'—Rann, Plane, Willis, Ashbourne—are all mates, all journos and all former Labor staffers.

I have often listened to the ABC—

The Hon. G.A. Ingerson: The four wise men.

The Hon. G.M. GUNN: The four wise men of the Adelaide media, all giving the view that they are objective, well informed and, of course, constructive. The interesting thing is that, when I am driving around the country, as I do regularly, I often turn on the radio and listen to this political comment, which is, I think, on Friday afternoons. So, I was interested in Randall's comments. I got a mention the other day in an article by Mr Plane in the *Messenger*. I will not take much notice of that because it will not affect my constituency. However—and I am subject to correction if I am wrong—how often has Mr Plane had anything to say about the good things this government has done? This government has had the courage to do the right thing. It did not make out that there was no problem and swept it under the boards. What credit have Mr Plane and others given to economic development: getting debt structures in place and all those other decisions that have been made to get on with allowing some development to take place?

What about the tourism industry? I understand that the honourable member had a look at Wilmington and Melrose on Sunday. Did he have a look at some of the tourism developments that are taking place in that part of the state, the roads that we have put in place and other steps that we have taken? Nothing was done under the Bannon government, because it spent all the money. It could not even get the Wilpena project off the ground even with our help. I crossed the floor of the House to try to help them but, no, not this group of Labor Party press secretaries, all they can do is pour scorn and sarcasm across the air waves.

JOINT COMMITTEE ON TRANSPORT SAFETY

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That the members of the House appointed to the joint committee have power to act on the committee during the recess.

Motion carried.

JOINT COMMITTEE ON THE ELECTRICITY BUSINESSES DISPOSAL PROCESS

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That the members of the House appointed to the joint committee have power to act on the committee during the recess.

Motion carried.

SELECT COMMITTEE ON THE MURRAY RIVER

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That the select committee have power to act during the recess.

Motion carried.

FOREST PROPERTY BILL

The Legislative Council agreed to the Bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Page 3—After line 4 insert new clause as follows:

Commencement

1A. This Act will come into operation on a day to be fixed by proclamation.

No. 2. Page 10 (clause 15)—After line 12 insert new subclause as follows:

(4) However, a licence cannot operate to the exclusion of a law that regulates the way in which, or the conditions under which, work is to be carried out.

Consideration in committee.

The Hon. M.H. ARMITAGE: I move:

That the Legislative Council's amendments be agreed to.

Motion carried.

APPROPRIATION BILL

The Legislative Council agreed to the bill without any amendment.

GROUND WATER (QUALCO-SUNLANDS) CONTROL BILL

The Legislative Council agreed to the bill without any amendment.

SOUTH AUSTRALIAN FORESTRY CORPORATION BILL

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1 Page 8, line 7 (clause 15)—Leave out 'An' and insert:
Subject to subsection (4), an

No. 2. Page 8 (clause 15)—After line 8 insert the following:
(4) The Corporation must not, in fixing terms and conditions of employment by the Corporation, discriminate against employees appointed after the commencement of this Act by appointing them on terms and conditions that are less favourable than those applying to employees transferred to the Corporation's employment in accordance with Schedule 1.

Consideration in committee.

The Hon. M.H. ARMITAGE: I move:

That the Legislative Council's amendments be agreed to.

Motion carried.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

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

SUMMARY OFFENCES (SEARCHES) AMENDMENT BILL

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

SUMMARY OFFENCES (PROSTITUTION) AMENDMENT BILL
PROSTITUTION (REGULATION) BILL
PROSTITUTION (LICENSING) BILL
PROSTITUTION (REGISTRATION) BILL
STATUTES AMENDMENT (PROSTITUTION) BILL

Adjourned cognate debate on second reading.

(Continued from 12 July. Page 1840.)

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): As I indicated in the few moments that were available to me last night, the government has introduced four alternative bills to reform the law relating to prostitution, and of course the member for Spence has introduced a fifth bill. Obviously, within the wider community, as much as in parliament, there is a range of views on what needs to be done about prostitution law and what should be contained in it. This is a controversial area of both the law and human social relationships, and this is the reason why members will exercise a conscience vote on each of these bills and for the government's having no preferred bill.

I will not comment on the different moral views expressed by members in the debate so far. Instead, I will summarise the policy focus of each of the bills introduced by the government; respond to issues raised in the debate so far; outline amendments that the government has prepared following consultation since the introduction of the bills and as placed on file; and, finally, make some summing up comments.

In relation to the four bills introduced by the government, the Police Commissioner in a report prepared for him in August 1998 argued that the current law relating to prostitution was unworkable and was in need of reform in one way or another. Many others in the community, including church groups, women's groups, local government, health professionals and people involved in providing prostitution services, have expressed a similar view.

The four alternative bills introduced by the government reflect its undertaking to provide government resources to develop workable alternative models to address these concerns. How the bills were developed has already been described in the second reading speech on the Summary Offences (Prostitution) Amendment Bill. Each bill is set in a different policy framework. Within its particular policy framework, each bill addresses community and police concerns such as the need for children to be protected; the need for the law to treat each party to an act of prostitution equally; and the need to minimise associated crime.

The extent to which the four bills differ reflects their different policy orientation. This explains why a particular provision that may seem sensible in one bill is not included in another and vice versa. The Summary Offences (Prostitution) Amendment Bill (No.17) is a criminal sanctions model under which prostitution becomes unlawful and related activities continue to be unlawful. The object of this bill is to continue the illegality of the prostitution industry in all its forms, but to make that illegality enforceable. In policy terms, this bill takes the position that prostitution is an activity that should not be engaged in by anyone, whether a client or a prostitute, and that no-one should be able to benefit from the provision of prostitution services by others.

The Prostitution (Regulation) Bill (No.18) proposes what is known as a negative licensing model under which it would be lawful for a person to be involved in a prostitution business if he or she is an adult; has not been convicted of a prescribed offence; is not incorporated; and has not been banned from the industry by court order. Of the three models that would make prostitution lawful in some circumstances, this bill requires the least government involvement. It is based on a policy position that prostitution may be engaged in by consenting adults and that it should be lawful for people to provide prostitution services, unless they demonstrate that they are not suitable to do so. The bill takes the approach that special government regulation of the industry is unnecessarily resource intensive to the taxpayer.

It differs from the Prostitution (Registration) Bill in that it does not require a sex business to be registered before it can operate. However, these two bills contain identical criteria under which people may be removed from the industry. In allowing prostitution to be lawful, the bill focuses on addressing issues identified as being of most concern to the community such as planning, health and associated crime.

The Prostitution (Licensing) Bill (No.19) proposes what is known as a licensing model under which prostitution is unlawful except when the business is registered and its operator licensed. This bill creates a new regime under which it would be lawful to operate, participate in or use the services

of a sex business if it meets licensing and registration standards. What is unique to this bill is the level of state involvement in setting and monitoring standards for the prostitution industry and in the imposition of a disciplinary process on licensees.

This bill is based on a policy position that prostitution may be engaged in by consenting adults if it occurs in a sex business that is registered and run by people who are licensed by government. A board appointed by government assesses the suitability of prospective operators, and anyone involved in the business monitors the operation of the business once it is registered and regulates the conduct of those who are licensed to operate and manage these businesses. Details of registered businesses are maintained on a government register and, in addition to giving government firm control of the industry, the bill addresses issues identified as being of most concern to the community, such as planning, health and associated crime.

The Prostitution (Registration) Bill (No. 20) proposes what is known as a registration model, under which prostitution is unlawful unless conducted through a registered business by a registered operator. In this respect it is similar to the Prostitution (Licensing) Bill but, unlike that bill, does not involve the government in screening out undesirable people before they can enter the legal industry.

This bill is based on a policy position that prostitution may be engaged in by consenting adults if it occurs in a business that is registered, but that those operating or involved in a registered business may be banned from the industry for undesirable conduct or association. Under this approach, government is concerned simply to know who is running or involved in sex businesses, and where. A register allows ease of access by public health and occupational health and safety authorities. It provides a record to which police may refer in their investigation of illicit operators and in seeking to ban people in the industry who commit crimes or have criminal associates or conduct their businesses unlawfully. The government's main focus in this model, as in the negative licensing model, is to impose measures that safeguard the community, such as planning controls, health and associated crime.

I would like to comment on and clarify a number of the issues that have been raised so far in the debate on these bills. The first is the argument that none of these bills will be effective, because none of them can ever stamp out illegal prostitution. Of course they cannot. It is very hard for a law by itself to eliminate any activity, but this is no argument against reforming the present law so that it may work better. The aim of all these proposals is to reform the outdated existing law so that the parties to illegal acts of prostitution are equally liable, so that there are heavy sanctions against those who make a profit out of illegal prostitution, and so that children are protected from exposure to prostitution. In the case of the bills that would allow prostitution to be lawful, there are additional aims of protecting from exploitation people who provide lawful prostitution services; minimising the potential for other criminal activities traditionally associated with prostitution to occur within the lawful industry; protecting the health and safety of prostitutes, their clients and the public at large; and protecting the public from unreasonable nuisance or offence. These I believe are attainable objectives.

Another assertion made is that the bills do not empower police to enforce the prostitution laws effectively. At the time the bills were introduced, the law in South Australia on police powers of entry, search and seizure were in a state of flux. The police powers provisions in each bill were therefore drafted to reflect the existing law, pending clarification of that law. It was always the intention to revisit these provisions after the bills were introduced, when the Supreme Court had delivered its decision in the Boilieu case. With the benefit of further consultation with the Commissioner of Police and of legal policy advice on police powers, government amendments to the police powers provisions are on file for the Summary Offences (Prostitution) Amendment Bill. The amendments aim to ensure that the new prostitution laws may be enforced effectively and fairly. There are also amendments on file for the Prostitution (Regulation) Bill.

Another argument put by several members was that, because the prostitution laws do not work in Victoria and other parts of Australia, we should not attempt to reform the law here. This proposition is true only if we adopt a legal regime which makes the same mistakes. On this point it is useful to compare what has happened in Victoria with the Northern Territory. In 1996 the Queensland government appointed Susan Johnson QC to conduct a review of the prostitution laws in Queensland with the view to reforming those laws. As part of this process, Ms Johnson conducted a review of all existing Australian prostitution laws, and her report was published in 1998 as a Queensland parliamentary discussion paper entitled 'Review of prostitution laws in Queensland'.

The discussion paper includes a review of the implementation of prostitution law reform in Victoria since 1986, when a licensing model was first introduced. The review concluded that in Victoria in 1998 there were 40 to 50 illegal prostitution businesses—mainly small scale, employing two to three workers—which, because of their small scale, were not willing or able to meet the licensing and planning requirements. The review noted that police had reported a very low level of criminal activity associated with the legal prostitution industry, a strict no drugs policy enforced by licence operators, and very little evidence of minors working in the legal industry. Of significance, however, were police reports of a high level of compliance and self-regulation within the legal industry and a willingness to report illegal activity, particularly of multiple interests. This was also the experience in the Northern Territory.

An increase in street prostitution in Victoria is thought to have been brought about by heroin and homelessness epidemics rather than by problems in the prostitution laws. The review concluded that it is the planning requirements in Victoria which have caused the major impediment to sex businesses entering the legal industry and which cause many small businesses to remain illegal. The problem lies in the cost and time involved in obtaining approval caused by routine local council appeals. This problem was compounded by the action taken by the Victorian government in 1993 to impose a moratorium on the further granting of approvals pending a review of the law. As a result, existing licensed brothels skyrocketed in value, and the number of illegal sex businesses increased because of their operators' inability to obtain a licence, even if they wished to do so. The reforms since introduced still allow some local council input, and the problem remains today.

This is not a problem that can arise under the three South Australian bills that would allow lawful prostitution (bills 18, 19 and 20). Under these bills, local councils have no standing to appeal and are not part of the approval process. Approval of brothel developments is to be by the Development

Assessment Commission, which must apply statewide planning principles to this process.

The Northern Territory Prostitution Regulation Act 1991 was reviewed by the Northern Territory Attorney-General's department, reporting to parliament in 1998. The Northern Territory act is very different from the Victorian act and from any of the bills now before the South Australian parliament. It legalises licensed escort agencies, ensures that brothels remain illegal and allows individual escort workers to work alone, as long as any sexual service provided at a hotel is not arranged on the premises of the hotel. Single workers are not allowed to provide sexual services at their homes. The Northern Territory Attorney-General's review concluded that the act's objectives have been met, that there was no substantive evidence of the involvement of organised crime in the industry and, as far as is known, prostitution services are provided through licensed agencies or by solo workers.

The Queensland parliamentary review report noted that one of the reasons for the success of the Northern Territory legislation is that planning approval is not required, because prostitution does not occur on the premises of the escort agency. However, it also noted that the down side of prohibiting brothels and requiring certification of solo workers is that the prostitutes are denied the opportunity to work in a safe environment, that is, a brothel, and that the prostitutes using the hotel rooms to provide services legally are often exploited by the hoteliers. The Northern Territory Attorney-General's report advocated that brothels be legalised, but recognised the public nuisance and planning concerns that this may entail, and a working party of the Northern Territory government is currently considering the proposal to legalise brothels.

It is important for members to appreciate that the South Australian cabinet subcommittee which developed the four government bills now before this parliament was charged with this, among other things, taking special note of the way prostitution laws worked in other states and territories. The subcommittee took great care not to make the same mistakes that have been made elsewhere. Thus, the Prostitution (Licensing) Bill produced by the subcommittee differs significantly from the Victorian and Northern Territory licensing models in its planning provisions. The Prostitution (Registration) Bill, which is loosely based on the ACT Prostitution Act 1992 (another registration model) contains provisions drafted to avoid the few problems experienced and now largely rectified since the introduction of that legislation.

The main problems with the ACT Prostitution Act were, first, that a component of the industry persistently remained outside the legal regime. This comprised solo prostitutes wishing to work in pairs from the same residential address, but who preferred to operate outside the system because to come within it would have required them to register as a brothel. The second main difficulty was removing undesirable people from the industry.

The Prostitution (Registration) Bill deals with the first of these problems by allowing prostitutes to work in pairs from home, subject to compliance with planning laws about home activities. It deals with the problem of removing undesirables from the industry by a banning process under which people who have committed or whose associates have committed any of a list of serious criminal offences or who have acted unlawfully in the conduct of the business or who, in some way, are unsuitable to operate a sex business may be banned.

The Queensland parliamentary review noted that one of the reasons for the success of the ACT legislation is the fact that there are few barriers to entry and no problems with planning processes because brothels that operate in prescribed areas do not need approval. The South Australian prostitution (registration) and (regulation) bills also present few barriers to gain entry into the legal industry, but they differ from the ACT legislation in not endorsing or allowing prescribed districts commonly known as 'red light' districts. Several members have asserted that greater protection needs to be given to children in these bills—to which I am personally committed. However, all the bills make it an offence to permit a child to be on premises being used for prostitution. None of the bills allows children to be involved in a sex business in any capacity.

But the protection of children afforded by these bills is only part of the picture. The existing law provides extensive protection to children against their being used by others for either commercial or non-commercial sex. The new sexual servitude provisions in the Criminal Law Consolidation Act prohibit the use of children to provide commercial sexual services or the obtaining of financial benefit from such use.

Under section 68 of this act, children may not be used as lap dancers, strippers or prostitutes or to provide any other form of commercial sex, and people who use them in this way or who exploit them for profit are subjected to very heavy penalties, the maximum being life imprisonment. Other sections of the Criminal Law Consolidation Act also protect children from sexual abuse or exploitation. Section 49 creates a series of offences of having sexual intercourse with children; section 58 prohibits an act of gross indecency against children under 16 years of age; section 58 prohibits the incitement or procurement of the commission by a child of an indecent act or exposure of a child's body for the interest of another; and section 80 prohibits the abduction of a child under 16 years of age. All the sexual offences that may be committed against adults are treated as aggravated offences and carry a heavier penalty when committed against a child.

Another member, during the debate, asserted that the legalisation of prostitution will impose a substantial financial WorkCover burden on the government and thus on the taxpayers. Advice given to me from my research officers is that this is not correct, as WorkCover entitlements are paid from an insurance fund compulsorily ascribed by all the employers in the industry; and thus, in a regime where prostitution may be lawful, a prostitute who is entitled to worker's compensation payments from his or her employer is paid out of a fund to which the employer's contribute. The government does not bear this cost. There is no evidence in any of the jurisdictions in which prostitution is lawful of a disproportionately high incidence of claims from this industry.

Another member raised an important issue with respect to public health. There appeared to be a great deal of confusion about how sexually transmitted diseases are spread and how best to contain them. Commercial sex workers have traditionally been viewed as a source of STD infection but, in recent times, this has not been supported by evidence given to me. The United States Centre for Disease Control reported that in the United States as of 1998 only 2 per cent of men with AIDS contracted it as a result of sex with a woman without an identified risk factor, and that it was likely that most of these men actually contracted the disease from wives and lovers rather than from commercial sex workers.

In fact, it is women who are more likely to contract HIV through heterosexual sex than men. Even when a female sex

worker is infected with HIV, it is almost impossible for her to transmit the disease to a man through sexual intercourse.

Closer to home, a comprehensive statewide notification system has been initiated by the STD Control Branch of the Health Commission, which provided information that, in 1998, there had been no known transmission of HIV/AIDS from a sex worker to a client in South Australia and that, in the period 1993 to 1997, only a tiny percentage of reported cases of gonorrhoea were transmitted by commercial sex workers.

The South Australian Health Commission reported to the Social Development Committee of our parliament in 1996 that prostitutes have a lower rate of STD infection than that of the general population. Some members asserted that the decriminalising bill seeks to control the spread of STDs by expedient, mandatory health checks for prostitutes and the use of health clearance certificates. None of the bills suggests this and for obvious reasons. A person's so-called STD-free status may have a very short life and may already be out of date when declared because the person may have become infected in the period between the test and the issue of the test results.

STD clearances for prostitutes would give misleading messages to clients, and in the case of an HIV-infected prostitute would be of no value, given the unlikelihood of transmission to the client in any event. Of course, the danger of HIV infection is not to the client but to the prostitute, and the source of that danger can be the client.

To prevent the spread of STDs through prostitution, bills 18, 19 and 20 allow for a health code of conduct to be set up which would work alongside the notifiable disease control measures in the Public and Environmental Health Act. Breach of the health code by an operator would incur a maximum fine of $10 000 and would be a ground for removal from the industry.

The law already punishes the reckless or intentional spread of STDs. Section 37 of the Public and Environmental Health Act makes it an offence for anyone, for example, a prostitute or a client, infected with a controlled notifiable disease not to take all reasonable measures to prevent transmission of the disease to others. The maximum fine for this offence is $30 000. It is also an offence under section 29 of the Criminal Law Consolidation Act for a person to do an act or make an omission knowing that it is likely to endanger the life or cause harm to another or intending or being recklessly indifferent to this. This offence would cover prostitutes, clients and possibly operators as well. The maximum penalty for endangering life in this way is 15 years imprisonment, and for causing grievous bodily harm five years imprisonment.

Thus the three bills (18, 19 and 20), each together with other laws, provide public health safeguards for prostitutes, clients and the public at large. A curious assertion made by one honourable member was that sexual therapists are not protected by the bills. Sexual therapists do not provide sexual services of the type covered by these bills to their clients. They are professional psychologists and health workers whose activities are not the subject of these laws.

There seemed also to be some confusion about the legality of the provision of sexual services to disabled people in institutions. At present, and under the criminal sanctions bill model (No. 17), institutions and staff who arrange for prostitutes to provide sexual services to disabled long-term patients are at risk of prosecution and conviction; and, under bills 18, 19 and 20, they would be able to continue these arrangements lawfully.

The issue of how lawful prostitution should sit within the planning laws was also raised by a number of members during the debate. The bills that allow lawful prostitution (bills 18, 19 and 20) contain planning provisions that give the Development Assessment Commission control of brothel development in South Australia. The experience in other states, particularly Victoria, as I have already explained, and New South Wales, has been that, unless local councils are kept out of the process, it will cost an otherwise lawful brothel considerable time and expense to obtain approval because councils will use all lawful means to obstruct this. The outcome is that only those brothels with significant financial backing can achieve lawful planning status, and the effect, of course, on the profile of the industry is to encourage reward to big operators and force all the smaller operators, smaller businesses, to operate illegally.

Bills 18, 19 and 20 would not allow this to happen. The planning provisions keep brothel development under the control of the Development Assessment Commission so that planning principles may be applied uniformly throughout the state. The Development Assessment Commission will be able to exclude applications where the size or location of the brothel is inappropriate. The brothel size limit of eight rooms, in combination with provisions in the bills, that prevent a person having an interest in more than one sex business and that prevent corporations from operating or being involved in a sex business will also help keep the profile of the sex business industry in South Australia small and transparent.

Incidentally, the prohibition on corporate involvement in bills 18, 19 and 20 means that, if prostitution were lawful, a sex business could not, as asserted by one member, list itself on the Stock Exchange. A location restriction in bills 18, 19 and 20 ensures that brothels are located away from residential areas and from places frequented by children, community groups and churches. These bills also contain a provision preventing the development in South Australia of red light districts. Under these bills, a prostitute working at home by herself or himself with no more than one co-worker does not need to obtain planning approval as long as he or she can meet the home activity requirements in the Development Act.

This leads me to the question of how organised crime and drug trafficking is being dealt with by these bills. There are no special provisions dealing with these issues in the criminal sanctions model (bill No. 17), because this bill prohibits anyone from involvement in prostitution. However, each of the three other bills—18, 19 and 20—prohibit corporate involvement in lawful sex businesses in order to make the control of the industry as transparent as possible. Under the prostitution regulation and registration bills—18 and 20 respectively—people operating or involved in a sex business may be banned for conducting it unlawfully, for committing an offence listed in the bill, such as extortion, theft, violence or drug trafficking, or for being in some other way unsuitable, for example, by virtue of their association with criminals. Under the Prostitution (Licensing) Bill, No. 19, such people are screened out in the licensing and registration process and, if they demonstrate unsuitability once licensed, by disciplinary action taken by the board.

I turn now to the amendments the government has placed on file. Of course, these will depend on which bill or bills are referred. Whichever bill is considered at the committee stage, the government will introduce amendments to the police's powers of entry, search and seizure in that bill. If the prostitution licensing, prostitution registration or prostitution

regulation bill is to be considered, the government will introduce the following amendments to the bill. We will introduce miscellaneous amendments that further clarify the licensing, registration and regulation processes; the nuisance process; the liability of managers and operators; the authority of public health inspectors; limitations on the scope of lawful sex business; and the confiscation of profits.

We will also introduce amendments to the planning provisions to remove any room for argument that the Development Assessment Commission is the relevant authority for approval of brothel developments and not local councils and that the Development Assessment Commission, in assessing a development application from a brothel owner, must first apply the exclusionary criteria in the Prostitution Act; and, then, if the proposal clears these, apply the planning criteria in the Development Act. At present the government has placed on file only these amendments to the Prostitution (Regulation) Bill. The member for Spence has introduced his bill—bill No. 94—which is also involved in this debate. However, I will not go into the points around the member for Spence's bill, because he has already debated it. I will leave that to further consideration in the debate.

Finally, I again would like to place on record my appreciation of the officers who worked with the cabinet subcommittee in doing all this research and putting it in an order where there is an opportunity for members of parliament to carefully assess what is a very complex issue. As I indicated last night, members of Parliament are really only a mirror image of the broader community and, therefore, a conscience vote is the appropriate way to go with this bill. I am sure that all members would join me in confirming a couple of important issues. I have already touched on one of those, namely, the need to ensure that children are protected from this industry. The second is that we need to consider assisting women who want to get out of the industry.

Like many members, I had the opportunity of meeting with Linda Watson from Linda's House of Hope. It was interesting that, in the short time she had been running that volunteer organisation with the help of a senior priest in Western Australia, she has had 200 girls come to her for help. I understand that she has had over 200 000 phone calls from around Australia where people desperate to get out of the industry have requested some sort of support. I understand that nothing else in the world is as comprehensive in supporting a worker who wants to get out of the sex industry as Linda's House of Hope. From advice given to me during my meeting with Linda, the right way to go would be to set up a government organisation and structure for that. It appears that, when you get people who have been involved in the industry who can get support from the church and have volunteers who are committed to an autonomous structure such as Linda's House of Hope, that is the best model to assist these people who want to get out. In conclusion, I think that this again gives members an overview of the four bills. It has also answered a lot of the points they have raised.

The SPEAKER: Before calling on the voting, I will make a few remarks on how we will deal with the five bills before us. Normally the chair has knowledge of the voting intentions of the House when government measures are before the House and also in private members' time and can give some indication by usually calling that the ayes have it. On this occasion, with five cognate bills and the chair not having any idea where members are going because it is a conscience vote, it is the intention of the chair to put each second reading vote separately and on each occasion to say, 'The noes have it.' This will give members present who feel strongly about supporting an individual bill the opportunity of calling 'Divide!' I will then call for the division and we will vote. So, we will be voting on individual bills depending on the will of the House. I hope that honourable members understand how we will do this, and I seek their cooperation as we work through the bills. It is certainly in the interests of the management of the House if the House makes some attempt to eliminate a number of these bills on the way through so that you end up in committee with a minimum number of bills to manage at that stage.

The first question before the House is that the Summary Offences (Prostitution) Amendment Bill be now read a second time.

The House divided on the second reading:

AYES (20)

Atkinson, M. J.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Hanna, K.	Hurley, A. K.
Kotz, D. C.	Koutsantonis, T.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Scalzi, G.
Snelling, J. J. (teller)	Venning, I. H.
Williams, M. R.	Wotton, D. C.

NOES (26)

Armitage, M. H.	Bedford, F. E.
Breuer, L. R.	Brindal, M. K. (teller)
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L.	Hill, J. D.
Ingerson, G. A.	Kerin, R. G.
Key, S. W.	Olsen, J. W.
Penfold, E. M.	Rankine, J. M.
Rann, M. D.	Stevens, L.
Such, R. B.	Thompson, M. G.
White, P. L.	Wright, M. J.

PAIR(S)

Majority of 6 for the noes.

Second reading thus negatived.

The House divided on the second reading of the Prostitution (Regulation) Bill:

AYES (26)

Armitage, M. H.	Bedford, F. E.
Breuer, L. R.	Brindal, M. K. (teller)
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L.	Hanna, K.
Hill, J. D.	Ingerson, G. A.
Key, S. W.	Maywald, K. A.
Penfold, E. M.	Rankine, J. M.
Rann, M. D.	Stevens, L.
Such, R. B.	Thompson, M. G.
White, P. L.	Wright, M. J.

NOES (20)

Atkinson, M. J.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.

NOES (cont.)

Hurley, A. K.	Kerin, R. G.
Kotz, D. C.	Koutsantonis, T.
Lewis, I. P.	Matthew, W. A.
McEwen, R. J. (teller)	Meier, E. J.
Olsen, J. W.	Scalzi, G.
Snelling, J. J.	Venning, I. H.
Williams, M. R.	Wotton, D. C.

PAIR(S)

Majority of 6 for the ayes.

Second reading thus carried.

Second reading of Prostitution (Licensing) Bill negatived.

Second reading of Prostitution (Registration) Bill negatived.

The House divided on the second reading of the Statutes Amendment (Prostitution) Bill:

AYES (6)

Atkinson, M. J. (teller)	Hanna, K.
Hurley, A. K.	Lewis, I. P.
Snelling, J. J.	White, P. L.

NOES (40)

Armitage, M. H.	Bedford, F. E.
Breuer, L. R.	Brindal, M. K. (teller)
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Ciccarello, V.
Clarke, R. D.	Condous, S. G.
Conlon, P. F.	De Laine, M. R.
Evans, I. F.	Foley, K. O.
Geraghty, R. K.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L.
Hill, J. D.	Ingerson, G. A.
Kerin, R. G.	Key, S. W.
Kotz, D. C.	Koutsantonis, T.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Olsen, J. W.	Penfold, E. M.
Rankine, J. M.	Rann, M. D.
Scalzi, G.	Stevens, L.
Such, R. B.	Thompson, M. G.
Venning, I. H.	Williams, M. R.
Wotton, D. C.	Wright, M. J.

Majority of 34 for the noes.

Second reading thus negatived.

PROSTITUTION (REGULATION) BILL

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: I give notice that, given that I did not support this bill, I will hand over to the Minister for Water Resources to take it through.

Clause passed.

Clause 2 passed.

Clause 3.

Mr LEWIS: I move:

That progress be reported.

No member could have anticipated which bill would succeed, and it is my belief that it is therefore necessary for those of us who wish to amend provisions in this bill to be given time to consult Parliamentary Counsel to do so.

The committee divided on the motion:

AYES (7)

Brown, D. C.	Condous, S. G.
Lewis, I. P. (teller)	Meier, E. J.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (39)

Armitage, M. H.	Atkinson, M. J.
Bedford, F. E.	Breuer, L. R.
Brindal, M. K. (teller)	Brokenshire, R. L.
Buckby, M. R.	Ciccarello, V.
Clarke, R. D.	Conlon, P. F.
De Laine, M. R.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L.	Hanna, K.
Hill, J. D.	Hurley, A. K.
Ingerson, G. A.	Kerin, R. G.
Key, S. W.	Kotz, D. C.
Koutsantonis, T.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Olsen, J. W.	Oswald, J. K. G.
Penfold, E. M.	Rankine, J. M.
Rann, M. D.	Snelling, J. J.
Stevens, L.	Such, R. B.
Thompson, M. G.	White, P. L.
Wright, M. J.	

PAIR(S)

Majority of 32 for the noes.

Motion thus negatived.

The Hon. M.K. BRINDAL: I move:

Page 1, after line 24—Insert new definitions as follows:

'occupier' of premises includes a person apparently in charge of premises;

'offence related to prostitution' means—

(a) an offence against this act; or

(b) an offence against section 66, 67 or 68 of the Criminal Law Consolidation Act 1935;

Page 2, after line 1—Insert new definition as follows:

'place of business' for a sex business means a brothel or a place at or from which arrangements are made for the provision of sexual services for payment;

Mr ATKINSON: I am having a little difficulty with the minister's amendment. It is only a technical difficulty, that is, in my copy of the Criminal Law Consolidation Act it appears that there are no sections 66, 67 or 68. Perhaps I have an outdated copy.

The Hon. M.K. BRINDAL: For a member who takes such interest in this matter, he will remember that the House passed recently some very important amendments on sexual servitude. They are, in fact, those amendments.

Amendment carried.

Mr WILLIAMS: In this clause 'sex business' means 'a business of providing or arranging for the provision of sexual services for payment'. Can the minister explain whether we are talking about a self-employed person or an owner-operator or are we talking about both?

The Hon. M.K. BRINDAL: Either.

Clause as amended passed.

Clause 4.

Mr SNELLING: The penalty of $20 000 applies against a person who is involved with a sex business if they have not attained 18 years of age: that penalty obviously applies to the person who has not attained that age. In the case of a 15, 16 or 17 year old found to have breached this section, does that

maximum penalty of $20 000 apply? If it does, it seems to me that you are penalising the victim.

The Hon. M.K. BRINDAL: The definition of 'involved' or 'carrying on the sex business' implies the person running the business, not the worker in the business. Therefore, it is a penalty that is held to be applicable to the exploiter, not the exploited.

Mr CONDOUS: During my recent trip to Sydney, I found that a lot of people who were operating and owning brothels had criminal records. It concerns me that, in practice, you could have a married man working as a storeman at Kmart and earning $25 000 or $30 000 a year and someone with a criminal record deciding that, because they themselves cannot get a permit, they will use the storeman as a front to operate the brothel so that they can then get part of the proceeds and offer him double what he is currently earning in his job. If you are going to have people who are clean skinned and the right type of people to operate a brothel—

Mr Atkinson interjecting:

Mr CONDOUS: Well, I am talking about people who will not finish up assaulting the women and treating them like a piece of meat in the market. It seems to me that the person who is going to set up that brothel, if it is going to cost $300 000 or $400 000 to set up, must have proof of their ability to raise the money; in other words, they should furnish tax returns and bank accounts, or mortgages on the family home supported by a bank, which show that they are the true owner of the brothel and that they are not being supported by criminal elements who cannot get the licence and who are just using that person as a front.

The Hon. M.K. BRINDAL: The member for Colton makes a good point and one for which I think all members of this House would have some sympathy, because it is not only in the business of prostitution that people set up front operators. It appears that in the corporate world, the financial world and even in the world of tax returns they have not worked out how to make everyone scrupulously honest. I acknowledge the point made by the member for Colton. I point out that we are dealing here with a minimalist intervention bill from the government. If the honourable member wanted to pursue that point he could and should make an amendment to the bill.

I am dealing with the bill which the House has given me to deal with. I acknowledge that it does not deal with this issue. However, if it cannot be dealt with adequately under taxation or many other forms of law, it will be very difficult. Finally, it is worth noting that if someone uses someone else and pushes them forward, that could constitute a fraud and the person would be prosecuted, if found. But the difficulty, as the member for Colton will know, for the state in any of its forms—whether it is the police, the administrative arm of the state or the citizens of the state—is that, if two people are complicit and one is a front for the other, you nearly always need the one who is the front to dob in the other before anyone realises that it is going on.

Mr KOUTSANTONIS: Will brothels now be charging GST on their services; will they be required to get an ABN; does the tax office have provisions ready for the sex industry; is it in operation in other states; and how will it be applied here?

The Hon. M.K. BRINDAL: I will refer your questions to the federal Treasurer.

Mr KOUTSANTONIS: The minister thinks he can come in here and legalise prostitution. He has been asked a serious question about how they will be taxed. One of the arguments used to legalise prostitution was that a huge amount of tax revenue was going missing because prostitution was not legalised. I asked a serious question about whether or not GST is applicable, but the minister gets up and fobs it off to the federal Treasurer. Either the minister knows or he does not. If he does not know, then he has got us into something about which he knows nothing. I deserve an answer from the minister. He has been one of the orchestrators of legalised prostitution in South Australia yet now he cannot tell me whether the GST will apply.

The Hon. M.K. BRINDAL: The member for Peake knows the standing orders. I am the Minister for Water Resources. I am not you. The member for Peake knows that this bill is in the hands of this House, not this minister; and this minister, as well as he, answers to this House. The member for Peake should also have been in this world long enough to know that a legitimate business is bound to pay its lawful tax, and these, being legitimate businesses, will pay the same amount of tax as any other legitimate business. I suggest to the member for Peake that if he wishes to ask me questions I will answer properly and respectfully. If he wishes merely to delay this House I will treat them with the disrespect that he is giving this House.

The Hon. G.A. INGERSON: One of the areas about which I am concerned in this clause is that it seems that the penalty applies only to the person who happens to be under 18 years of age, and does not appear to apply to the person who may have employed that person who is under 18 years of age. Could I have some clarification on that matter?

The Hon. M.K. BRINDAL: This provision is solely about a person operating a brothel. This actually prohibits anyone under 18 and anyone convicted of an offence from running a brothel. There is a separate provision in here which deals with anyone being on the site of a brothel who is under 18, but this provision deals solely with people who are running a business.

Mr KOUTSANTONIS: I assume that many brothels now will be residential premises; someone who decides to become a sex worker may use their house. They might be married with children. Will the brothel be only that part of the house that is used for business, or will it be the entire property? I assume that, currently where people work from home, as it were, the front of the house is a brothel and the back part is a residence. Is there a distinction between the two?

The Hon. M.K. BRINDAL: For the purpose of prostitution, the planning law distinguishes up to eight rooms which are used for those purposes, so it would appear that at least an argument could be put in law that a brothel is that part of an establishment premises in which the sexual act occurs. Without referring to Their Honours' opinions too much, I would imagine that current case law would be much the same, because I would not think that the public areas of certain hotels and motels around the city would be defined in law as brothels, but their bedrooms might well be. So, I presume that the legal interpretation will be the bedrooms or places where prostitution occurs, but that is a matter that is the genuine province of the law—as it always has been in the past. The member for Spence can fill in for the member for Peake the different rulings of Millhouse J. and some of the others about what constitutes a brothel.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: There you go; I suggest that the member for Spence might discuss it with the member for Peake, because the member for Spence knows a fair bit about this.

Mr WILLIAMS: I am still having problems with the provision that a natural person must not carry on or be involved in a sex business if he or she has not attained 18 years of age. In reply to the member for Playford, the minister said that, no, the $20 000 penalty would be imposed on the employer. I asked a specific question a few minutes ago regarding the definitions of sex business, and I was told that a sex business could be an owner operated or a self employed business. Surely, there is a possibility that a single operator under 18 could be not employed by an employer but operating their own business as a self employed operator of a sex business. How does this clause intend to handle that situation? Who would be charged, what would be the penalty and how would it be administered?

The Hon. M.K. BRINDAL: This clause deals solely with those who are running a business. They are either running a business or taking something out of a business and making a profit from the business. As I understand it, yes, if somebody under 18 wanted to be a self employed sex worker and therefore was an owner operator, the penalty would apply. For my part in this House (and I do not speak for the other 46 members), I make no apology for thinking that people under 18 should not be able to carry out or engage in a sex business, and therefore the $20 000 penalty applies. Whether they are owner operators, whether they are just taking out a profit or whatever else they are doing, it is not an occupation for people under 18. If the member for MacKillop thinks otherwise, I suggest he move an amendment.

Mr WILLIAMS: On the contrary—and I am almost offended by the attitude that the minister took in his remarks just now. The minister well knows that, on the contrary, I am totally opposed to not only persons under 18 years of age but also persons of all ages being encouraged to take up this insidious business, and it is a bit cute of the minister to imply otherwise. I specifically asked the minister how he saw this being administered. If a person under 18 were running a self employed sex business as a one person operator and they were charged, I assume that they would be dealt with by the juvenile court. Not being a lawyer, I would have no idea; does the juvenile court have jurisdiction to impose a maximum penalty up to $20 000?

The Hon. M.K. BRINDAL: I am not exactly sure which jurisdiction would apply, but we will ascertain that information and give the honourable member a considered answer later in the debate or in the break, whichever comes first.

Mr WILLIAMS: In the light of that, I would suggest that we move on and return to clause 4 when that information is available.

The CHAIRMAN: It is not appropriate that that should happen. It is possible for the clause to be recommitted.

Mr WILLIAMS: I find it very hard to be involved in a vote on this clause when the questions that I have asked have not been answered.

The Hon. M.K. BRINDAL: The member for MacKillop knows that one of the forms of this House is that the minister at the table must answer the questions to the best of his ability; that does not include telling lies. I have told the member that I do not know and I cannot answer the question. The member for MacKillop therefore has to accept that I will give him an answer during the break, or he is free to vote against the clause. I cannot do any better than that; I cannot produce an answer out of the sky, and I will not tell lies.

The CHAIRMAN: Order! I ask the minister to speak into the microphone.

The Hon. M.K. BRINDAL: I cannot give the member for MacKillop an answer at this time, and I do not believe the debate should be delayed. I believe the member for MacKillop should vote against this clause if he does not find it acceptable.

Mr HANNA: I think that I share some of the concern of the member for MacKillop in respect of clause 4(2)(a). Given that clause 16 already prohibits children from being on premises or, more specifically, prohibits people from allowing children to be on premises, why would there be an offence which targets the child in clause 4? I am concerned only about the 15 or 16 year old who might be employed to work as a receptionist, for example, or to be the driver of a car, if they are 16, and quite innocently not realise the full import of what they are doing, but they can be charged with a maximum fine of $20 000 if they are involved in a sex business.

Surely, a receptionist or a driver—we all know about the drivers of escort businesses—would be involved in a sex business. It is only now, looking at it in committee, that I realise that this bill is targeting the child who may be dragged into or persuaded to join prostitution. That does not seem to me to be in keeping with the policy that has been talked about by the minister and other ministers so far. Can the minister clarify that for me?

The Hon. M.K. BRINDAL: Yes, I can. The honourable member will note that clause 4 provides:

> [a person] must not carry on or be involved in a sex business.

We have established that we are talking about operators. If the honourable member turns back the page he will see that clause 3(2) provides:

> For the purposes of this act—

and there is a definition of 'involved in a sex business', which clarifies the position—

> a person is involved in a sex business if [they manage the business]; or a person who has the right to participate in, or a reasonable expectation of participating in, income or profits derived from the business; or a person who is in a position to influence [to issue the control].

Subclause (3) provides:

> However, a prostitute is not regarded as being involved in the sex business only because a prostitute is entitled, by way of remuneration, to a proportion. . .

Under this clause a person must not carry on or be involved in a business, not in the sense of employeeship but in the sense of ownership, participation in profits, or measures as defined in the definition of 'involved in a sex business'.

The CHAIRMAN: The member for MacKillop has asked his three questions in respect of this clause. The member for Hammond.

Mr LEWIS: I wish to move the amendments standing in my name. They will be circulated as soon as they can be printed. What they seek to do is to address—

The CHAIRMAN: Would the honourable member care to bring those amendments or that amendment to the table?

Mr LEWIS: If I give the table staff my copy I will not have one, Mr Chairman; they are coming as fast as they can.

The CHAIRMAN: Would the honourable member like to have the amendments photocopied so that the chair can look at the—

Mr LEWIS: They are being photocopied as we speak. I do not know how else to proceed. Given that a squat is worth at least $1 000 for anyone who is worth having on, in the opinion of those who seek the sexual services of another,

$20 000 as a maximum penalty is pretty inadequate, especially in view of the fact that one knows that a number of brothels have more than six prostitutes working there and they can easily have revenues of $50 000 a night. At least that is certainly the case in Sydney. I would not have a clue what they are here; I have not bothered to find out. Notwithstanding that, Australia is a free market and what it costs you for a packet of chewies in Sydney is not much different from what it costs you for a packet of chewies in Adelaide.

The same applies to whatever else you get by the package, and I am talking about squats or whatever else you want to call it, without wanting to be offensive to anyone. Let us get rid of this model in our minds that it is the girls who are providing the service: people are providing the service, whether they are men or women or boys and girls. Stop the nonsense of thinking that it is some sort of unfair penalty on women. This is a law to stop a practice between people, a law that has victims. I return to the substance of the clause while my amendments are being printed and ask the minister why he chose just the penalty of a fine, and such a meagre fine as that, given the revenue that will be generated, if it is not already being generated, by the provision of the services about which I speak.

We are talking here now about the temptation there will be to introduce what would be regarded as the top-line pussies from Asia, or anywhere else. You could fly them in for $2 000 and set them up as a brothel owner to earn $5 000 a night without any bother. That is illegal, but the maximum fine is only $20 000 if you are caught. There is no increased penalty for second and subsequent offences other than that if an offence against the section continues for 100 days—hell, the end gain there is that you will get only an additional $100 fine for every extra day. We listened to what the member for Colton told us and you can easily see that that is no problem: they will pay the fine, quite happily, and just stay in business.

If you do not get caught you are home free, and if you do get caught, well, it is a licence fee; it is a commission you have to pay the government to operate. That is the way it will be viewed. These people do not have any respect for the law; they will do whatever they want. In that case I am suggesting that the fine ought to be $100 000 maximum or 15 years imprisonment. You then have some deterrent to people who will want to operate outside the law. They will see that the penalties will be pretty rich. As it stands there is no deterrent, none at all. There needs to be, instead of a fine of $100 a day for each period beyond 100 days, something a little more akin to $1 000.

Accordingly, my belief is that the committee would be well advised to take measures, unless it wants the mess there is in Victoria—and it will come here quickly because already the models are known in Victoria as to how to go about it; the practice has already been established—we need to send a very strong signal to those who want to get involved in this part of organised crime, because if they are doing it outside the law, as they no doubt will, then they are part of an organised crime because they are getting other people involved in a business that takes an organisation to operate.

I say to those people who are the protagonists of this legislation to please listen and please accept the legitimacy of what I am saying. Every remark that I have ever made on this legislation is made against the background of personal knowledge of what has happened in other places on God's earth with other people in other societies, and that goes back over 35 years. I am not exaggerating in any respect at all when I point out that the mess in Melbourne and Sydney is something we can do without in South Australia, surely. I am hopeful that, pretty soon, my amendments will arrive but I ask the minister, who has carriage of this piece of government legislation, to perhaps indicate his willingness to accept an amendment to the maximum penalty and an extension of the amount of $100 for each day; and, if not, will he please explain why not?

The Hon. M.K. BRINDAL: I know that the member for Hammond has a passion in his beliefs on this matter and he has demonstrated that not only in this debate but consistently over a number of years. If the member for Hammond will bear with me, we can pre-empt a few matters. The honourable member is right: $20 000 is the initial offence; then, if it continues, the fine is $1 000 a day. However, at that stage—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: Sorry, $100 a day. At that stage, however, there is also the power to make a banning order. After that, if the banning order is contravened, a $35 000 fine or a seven year imprisonment penalty applies. This should not be viewed as an end and having finality in itself. It is part of a continuum that says, 'If you do this, and you breach the law and you do it once, you get fined $20 000.'

An honourable member interjecting:

The Hon. M.K. BRINDAL: You get fined a maximum of $20 000. The fines in most of our laws are expressed in maximum penalties. If the member for Spence wants to move an amendment that involves minimum mandatory sentencing, let him do so. It continues, with $100 a day. Then there is a banning order, and the banning order is seven years imprisonment or $35 000. I know the member for Hammond's passion for this. I suggest to him two things. First, I was not the author of this bill; I merely have carriage of it through the House.

The government deserves the credit that it knew this was a problem and it presented a range of bills for the consideration of members. Those bills were developed properly by people who are qualified in this area—lawyers and people like that—and they were looked at by a subcommittee of the Liberal Party, including me; that is true. However, I am not the author of these bills. The work that has been done on the bills is very good work.

With regard to the member for Hammond's amendment, given that this place often concerns itself with relativities, the penalties he would impose are in a sense inordinately higher than those for many other crimes that some people might consider to be even more heinous than this. I also say to the member for Hammond that I am not quite sure to what he was referring in his initial remarks. I presume the word he used refers to some sort of sexual service or something. I do not understand what a squat is.

Mr LEWIS: I did not realise that the honourable member was so ignorant.

An honourable member interjecting:

The CHAIRMAN: Order!

Mr LEWIS: It is a term that is used in other places. We do not have prostitution here, so we do not get to hear it. If you go into the tenderloin district in San Francisco, it means that someone will go down for the sexual pleasure for someone else, whether it is in the bottom or the top, back or the front, please yourself—it is called a squat. Now that the honourable member is disabused of the realities of this world, please accept that I am equally certain, knowing the sorts of people who get involved in this industry, that to be soft on them for the first time around this is small beer or little

taxation. The attitude is '20 000 bucks, no worries.' That is like swatting a mosquito. They would not even feel the loss of the energy. They would come into South Australia, set up a knock shop and walk out before they were even found to have committed a second offence and come back under an alias, or anything else. If we do not stiffen up the penalties, the will be in and out of the business collecting from about $250 000 to $500 000 in a matter of months. Why must we have this gradation? The thing that the committee is missing out on is the mindset of the proprietors: they are doing it for money. They do not do it for the love of the prostitute, whether that is a young man or woman. They do not do it out of any concern for them at all. They will screw them down for as little payment per service possible, per week, no matter the number of services. They will pay them as little as they can get away with. They do not do it because they are concerned about providing a service to the client. They do not give a damn about the desires of the clients.

The CHAIRMAN: Order! Is it intention of the member for Hammond to proceed with his amendment?

Mr LEWIS: Yes, I move my amendments, as follows:

Page 4—
Line 6—Leave out the penalty provision and insert:
Maximum penalty: $100 000 or 15 years imprisonment.
Line 10—Leave out the penalty provision and insert:
Maximum penalty: $100 000 or 15 years imprisonment.
Line 12—Leave out $100 and insert:
$1 000.

I am justifying doing so to the committee. I am trying to get the committee earnestly and honestly to understand what it is dealing with here. The people whom we are dealing with do not give a damn: they do not give a damn about the people whom they are using to get the money or the clients who come to use the services to get the money. They are doing it for money, and they will stop at nothing. Broken ankles and arms, mutilated faces and smashed teeth are small beer to get compliance with what—

Mr Hanna: You can say that about any commercial business.

Mr LEWIS: No, you can't, because these people are trafficking in human feelings and desires. That is where they get their money from, not out of any need for sustenance, shelter or self-actualisation. It is straight-out need or desire. If they get their prostitutes hooked on drugs so that they have them locked in, they will do so. Minimal cash will be provided, plus the hits they need to stay in there. Once they are hooked on drugs, they will have to stay.

If the committee cannot understand that, members have made a horrible decision. I have seen it, and I must admit that I have even used that myself to get information out of people. Those who get involved in this have no principles at all and, before long, those who come in to service clients have no principles. They will do anything just for the better satisfaction of the next minute.

Mr Hanna: What is your point?

Mr LEWIS: My point is quite simply that you must impose a severe enough penalty to make it too big a risk to begin to come in and operate outside the law, or what you are proposing to introduce as a regulated model, which you think will be all nice and pleasant; and the people who choose to operate inside the law will then find themselves competing with even more people who are outside it and relying on the fact that there is a greater number of clients, coincidentally, who are willing to use what is available outside. Therefore, I beg honourable members to increase the penalties up front and stop illegal activity. It is not coincidental; it is deliberate, and they know what they are up to when they start out. I urge all honourable members to support my amendments, the effects of which are $100 000 or 15 years imprisonment and $1 000 a day for every day over 100 days, instead of $20 000 and $100 a day.

Mr WILLIAMS: I rise in support of the amendment moved by the member for Hammond. I sincerely hope and believe that all members of the committee who are supporting this bill will support the member for Hammond for, after all, the rationale behind this bill is to do something better than what we are doing now. The House has expressed an opinion that the current law does not work, that there are people working outside the current law and it is virtually impossible to police. The police have no powers, the law has no teeth. The member for Hammond has recognised that, and I hope that the committee recognises it also and fulfils its desire to change the law and bring in a law which will work—a law, if the committee so desires, which will indeed regulate this heinous act.

This bill regulates prostitution and will, in turn, set up a legalised, regulated industry. It does absolutely nothing to those who would operate outside this law, who would operate as those who operate in the industry already operate. It does absolutely nothing. No provisions in this bill address the problem that those who are promoting this regulation bill used as their rational for bringing it to the House and encouraging the House to support it. I certainly agree with everything that the member for Hammond has said.

If we wish to have a regulated industry, it is imperative that we stamp out the black industry which would operate outside the regulations. That is where all the weaknesses in this bill occur. I recognise that it seems to be the wish of the committee to have a regulated industry. It is not something which I find acceptable at all. I would have it otherwise myself, but if we are to have a regulated industry let us make sure we do what the committee says it wants to do and get rid of the black industry that would operate outside. That is what the member for Hammond is talking about. Let us have the penalties for those who wish to work outside the industry such that there is a real deterrent and not a slap on the wrist. As I have tried to highlight to the minister a couple of times with regard to those who are under 18 years, there is a serious problem there and the bill does not address it. The amendment of the member for Hammond would have no effect in addressing those inconsistencies in the bill. There is still a problem there, but I wholeheartedly support the thrust of his amendment.

The Hon. M.K. BRINDAL: The member for MacKillop does not quite understand that bill No. 18 is the minimum government intervention model. Under this bill there is simply not a black industry. It simply cannot exist at all unless there is a contravention of something like these sections. This reverses where we have been going for ages. Talking of stamping out the black industry is not logical in the context of what the bill seeks to do in the statute law of South Australia. Under this bill somebody will be part of a black industry only if they contravene the provisions of this act. The member for MacKillop is not arguing logically or sensibly in view of the bill that is before the committee.

To answer the question of the member for MacKillop, since he had difficulty voting, clause 4(2)(a) enables the offence to occur with a penalty of $20 000. If a child is charged and dealt with in the Youth Court that court cannot impose a penalty beyond $2 500. A child charged under this act in the Youth Court would attract a maximum penalty of

$2 500. However, the penalty in clause 4 is a maximum and, were the child to be 17 or 18 years and the offence was taken to an adult court and the child—or person—tried in the adult court, the full penalty could be applied. In the case of a child who operates or is engaged in the business, those arresting (the people who know about those things) would have a discretionary power either to charge the child in a Youth Court where $2 500 would be the maximum penalty or to take them to the adult court where $20 000 would be the maximum penalty.

Mr WILLIAMS: This bill has been brought to the parliament on the premise that we need to do something because the existing laws do not work, that we have an industry that is uncontrolled and an industry that is unpoliceable and unenforceable under the current law. It is my understanding that the whole premise behind regulating this industry is to get beyond that, yet all the evidence we have is that the industry outside the regulated lawful part of the prostitution industry in Melbourne or Sydney and other jurisdictions has indeed flourished. If any members supporting this bill are doing so because they believe it will clean up the industry, that regulation will allow health checks, will allow us to do something about keeping children and vulnerable people out of this industry, I suggest that they ask where is the evidence that that will happen. The evidence is glaring: in other jurisdictions the exact opposite has happened. The prostitution industry outside of regulation has flourished. The minister has just admitted to the committee that this bill has never sought to do anything about that.

The Hon. M.K. BRINDAL: The minister can speak for himself. That may be the interpretation of the member for MacKillop. The member for MacKillop needs to understand that other jurisdictions do have problems because they have not taken the approach that this bill is taking. In Victoria many of the problems of the illegal industry are related to planning issues and the amount of money required to set up a legal industry. It is a disaster in Victoria. Everybody on all sides of the argument acknowledges that Victoria is a total disaster because of planning issues. Other jurisdictions have other problems.

This bill is a different bill, a different model than exists in any other jurisdiction in this country. This bill is a different model and will have different consequences, but one of the consequences will be, if the bill is passed in this form, that there is virtually no black industry because, quite simply, the industry is allowed. There cannot be a black industry as it is simply an allowable industry. I have some sympathy for what the member for MacKillop says. I point out to him that at another time in this place I introduced a bill much more to control the industry and this House saw the bill rejected. We may be now going down a much more liberal path and that is the will of this committee.

Mr SCALZI: I speak against the amendment moved by the member for Hammond, not because I do not agree that we should be tough on the profiteers of prostitution but because of the discrimination that may occur in respect of the penalties against those who might be involved in prostitution in the short term. This clause does not deal with the social aspects of prostitution. I am pleased that the minister explained that the maximum fine will be $2 500 under the children's jurisdiction. Those operating outside this regulatory model, where the act will apply, are indulging in the same activity as those operating within the model, yet the penalties they will have to face will be I believe very harsh if we accept the amendment of the member for Hammond. Many people who find themselves in prostitution or the sex trade are not necessarily there because they wish to be there.

This clause and amendment are treating it in a clinical fashion as if it is their free will to be there. An amount of $100 000 and 15 years imprisonment is one thing if it is a big body corporate, but if it is a small operator outside the regulatory model it is another. We have found that in other states, where two-thirds of the brothels are illegal; they have created a market for certain groups of people who work within the regulatory model and can go on day after day and make a profit, and those outside the model who might be there for many reasons will be dealt with harshly. I do not believe that this amendment or clause differentiates between the two.

Mr LEWIS: I do not know how many other people are like the member for Hartley and have misunderstood what I was trying to tell the committee. Clearly the minister has. The first point, quite clearly, is that we have just voted for a free for all. If you want to be in the sex industry you only need to get planning approval to go on with it. You set up your business and go for it.

That is what this House is now debating. In particular, we are debating those people who seek to operate against this law in that model. I am not saying anything about that model: I am talking about people who have been convicted of a prescribed offence. I guess the member for Unley, since it is not his bill although he has the carriage of it—and that is a quaint and cute thing, trying to detach himself from responsibility for it—and he can have the kudos all to himself. I am sure his God in heaven will judge him pleasantly, wherever heaven is.

More particularly, I am drawing attention to those people who are criminals, who come in and set up this business. I have said that you are dealing here with those who are quite unprincipled in every respect. They just do not care about anything. They are those referred to in clause 4(2)(b):

> A natural person must not carry on or be involved in a sex business if he or she—
>
> (b) has been convicted of a prescribed offence.

I do not know what that prescribed offence will be: that will be determined in the regulations that the government will bring up. But what it will say is that in the government's opinion they are undesirable people to be involved in the sex industry. I am saying that I agree. Notwithstanding the fact that it is all bad, this is particularly so, because we are dealing with people who want to make a profit but who do not care. They have demonstrated already before the law that they have no respect for the law.

So, putting in a small penalty that they will get enough money to cover in a few hours of operation is pointless. They will literally fly in here with the arrangements for their entourage to arrive behind them in a matter of a few hours when there is a major event on here, and they will set up, make their killing and move on. And they will stop at nothing in the way they deal with the people who work for them or the clients whom the people working for them serve.

I am saying that $20 000 for someone who has already demonstrated that they are of a criminal frame of mind, who do not care about the law, they have broken it already, are not the sorts of people who will respect such a fine. It is just no problem to them: it is small beer. It is a commission to the government for the killing they are going to make while they are in business. It is just no problem.

I am saying that if you want to aid and abet that kind of activity in Australia, because they move around—and do not

tell me they do not, I know they do. I was propositioned at a Grand Prix ball and dinner when the people flew in. The fellow organising the show came in from Sydney but the prostitutes he brought to the dinner—and he did it in collusion with the organisers—came from all over the place. And they were here for the duration of the Grand Prix.

As I said, a squat was $1 000. While I am on that point, so that the House can understand the derivation of the term 'diddly squat', that means a squat in which you do not get what you paid for. Nothing: that is what diddly squat means. I am trying to help members understand that that is where it came from. I am trying to help members understand that this clause is intended to stop people who are undesirable from engaging in the industry, abusing those whom they employ and abusing those who will be their clients if they can see an extra buck in it.

The Hon. M.K. BRINDAL: I refer the member for Hammond to page 2. He was not aware of the offences: the offences are listed on page 2.

Amendments negatived; clause passed.

Clause 5.

Mr WILLIAMS: The way this bill is being carried through the House makes it very difficult, because nobody is really responsible for the bill and it is hard to get questions answered. But clause 5(1)(b) provides:

> the person is not in some other respect a suitable person to carry on, or to be involved in, a sex business.

This is a very subjective criterion to use. How do you determine who is a suitable person? If I were making the judgment there would be no such thing as a suitable person and the question would never arise, because if someone in my judgment was suitable to run a brothel, I am absolutely certain they would not be interested in carrying on such a business anyhow.

Will the minister give the committee some idea of what a suitable person to carry out this business might be like; what sort of attributes they might have? We go on in subclause (2) to talk about the character, known associates etc. It will save me having to ask the minister two or three questions on this if he could enlighten me as to who he thinks would have a suitable character and would be a suitable person, and how would be determined the suitability and character of their known associates.

The Hon. M.K. BRINDAL: What one can do in the law is define things rigidly. You can actually define the gates, absolutely and categorically. No-one under six foot five can be a member of this House: nobody over 300 pounds can do this; they are absolutes. You can define the law in that way, but it is generally considered wise by this House in all sorts of legislation to give the justice system some sort of discretion for those problems because, when you define problems in absolutes, that is the sole purpose of the law.

The Water Resources Act is a good example of that. If we were to do this in this respect, then you give the courts no discretion to come up with the sort of person who is not defined in the law as being an unsuitable person but who all of us in commonsense would suddenly realise was an unsuitable person but was not included in the definition. This definition is there so that the courts and those charged with the administration of the act once it leaves here have some discretion to decide that, while this parliament did not rigidly define this person as being unsuitable, clearly they are unsuitable and therefore they can be banned.

Clause passed.

Clause 6 passed.

Clause 7.

Mr WILLIAMS: This may be just a technical question about the way the bill is written. Clause 7(1) says if a person 'carries on a business' and clause 7(2) says if a person 'is involved in a business,' etc., yet everywhere else up to this point in the act we say 'sex business.' Why do we use a different terminology at this point in the act?

The Hon. M.K. BRINDAL: It is just a semantic question. Those who will be looking at this in the Upper House can certainly look at including the words 'sex business' in both these clauses. Under this clause, 'a business' is clearly a sex business. However, the member for MacKillop is right in saying that everywhere else it simply says 'sex business'. Where it does not, we can have that inserted in the other place.

Clause passed.

Clause 8 passed.

Clause 9.

The Hon. M.K. BRINDAL: I move:

Page 5, lines 31 to 33—Leave out this clause and insert:

Application of Development Act subject to division

9. The Development Act 1993 applies, subject to this division, to a development involving the establishment of a brothel or use of premises as a brothel.

Amendment carried; new clause inserted.

Clause 10.

The Hon. M.K. BRINDAL: I move:

Page 6, lines 1 to 25—Leave out this clause and insert:

Developments involving brothels

10. The following applies in relation to a proposed development involving the establishment of a brothel or use of premises as a brothel:

(a) the Development Assessment Commission is to be regarded as having been constituted under the Development Act 1993 as the relevant authority:

(b) the development is to be regarded as having been assigned to category 2;

(c) the Development Assessment Commission has, subject to paragraph (d), a discretion to approve the development;

(d) the Development Assessment Commission is not to approve the development if—

(i) the part of a local government area in which the premises are, or are to be, situated—

(A) is zoned or set apart under the development plan for residential use; or

(B) is a part of the local government area in which residential use is, according to the development plan, to be encouraged; or

(ii) the premises are situated within 200 metres of a school or other place used for the education, care or recreation of children, a church or other place of worship or a community centre; or

(iii) the premises would have more than eight rooms available for the provision of sexual services; or

(iv) in the opinion of the Development Assessment Commission the premises would, in conjunction with other brothels in the area, tend to establish a red light district, that is, an inappropriately high concentration of brothels in the same area; or

(v) approval would not be consistent with criteria prescribed by the regulations;

(e) in deciding whether to approve the development, the Development Assessment Commission is to have regard to the provisions of the appropriate development plan but is not bound by those provisions.

Mr KOUTSANTONIS: If someone wishes to gain approval for a brothel, should they apply to their local council or the Development Assessment Commission? My assump-

tion is that the Development Assessment Commission is the authority that looks at the approvals after they have been made by a council rather than first-hand.

The Hon. M.K. BRINDAL: No. This clearly gives the Development Assessment Commission the power to determine the location of a brothel. It is a planning issue. It is not for the council but for the Development Assessment Commission to approve.

[Sitting suspended from 6 to 7.30 p.m.]

Mr KOUTSANTONIS: Would the minister explain to the committee what kind of premises will be included within the distances of 50 metres and 200 metres? Would it be churches, school groups, kindergartens and child-care centres? How far-reaching is it?

The Hon. M.K. BRINDAL: I do not understand the member for Peake's question, unless he is trying waste time. Clause 10(b) provides:

> . . . a school or other place used for the education, care or recreation of children, a church or other place of worship [such as a Buddhist temple] or a community centre.

I do not know how much more explicit the member expects me to be.

The Hon. G.M. GUNN: I move:

> Page 6, lines 1 to 25—Leave out this clause and insert:
> Developments involving brothels
> 10. Despite Part 4 of the Development Act 1993, the regulations under that Act and the Development Plan, the following applies in relation to a proposed development involving the establishment of a brothel or use of premises as a brothel:
> (a) the development is to be regarded as having been assigned to Category 2;
> (b) the relevant authority is not to approve the development if—
> (i) the part of a local government area in which the premises are, or are to be, situated—
> (A) is zoned or set apart under the Development Plan for residential use; or
> (B) is a part of the local government area in which residential use is, according to the Development Plan, to be encouraged; or
> (ii) the premises are situated within 200 metres of a school or other place used for the education, care or recreation of children, a church or other place of worship or a community centre; or
> (iii) the premises would have more than eight rooms available for the provision of sexual services; or
> (iv) in the opinion of the relevant authority, the premises would, in conjunction with other brothels in the area, tend to establish a red light district ie an inappropriately high concentration of brothels in the same area; or
> (v) approval would not be consistent with criteria prescribed by the regulations.

This amendment takes the matter away from the Development Assessment Commission and gives it to the local council to make a determination.

Mr Atkinson: How does it do that?

The Hon. G.M. GUNN: According to the advice that I have received, under the Development Act the council has a certain amount of authority. My amendment removes the ability of the Development Assessment Commission to override the authority of a local council. I am of the view that it is up to the local community to determine whether or not they want these sorts of establishments. It will give them the ability to go to their council, if an application is made, and the council can make a decision to stop it. I am all in favour of local government. Therefore, I have moved this amendment, which I believe will give local communities the sort of authority that they require.

One of the reasons I have moved this amendment is that constituents in my electorate have protested most vigorously about the installation of poker machines in a hotel, but under that legislation they have absolutely no rights, and I think that is quite wrong. I foreshadow that on a future occasion I will attempt to move an amendment to that legislation because the way in which my constituents have been treated—going to the Liquor Licensing Commissioner with all the goodwill in the world—is a waste of time.

Mr Atkinson: At Melrose?

The Hon. G.M. GUNN: At Melrose, yes. It has helped the other hotel, but I had better not talk about that. This gives local government the authority. The elected representatives of that area should know what their communities want. Therefore, I formally move the amendment standing in my name.

The CHAIRMAN: For the clarification of the committee, can the chair remind members of the committee that we now have two new alternatives to clause 10 that have been introduced, one by the minister and the other by the member for Stuart. I understand that the member for Peake has an amendment to the amendment that has been moved by the member for Stuart. It would be appropriate if we dealt with that amendment now.

Mr KOUTSANTONIS: I move to amend the Hon. Mr Gunn's amendment, as follows:

> Leave out category 2 and insert category 3.

It is my understanding that a category 2 classification in relation to the development of a brothel means that only adjoining properties are notified that a brothel is going up next door. I understand that category 3 has a larger circumference, and (although I could be wrong, in which event the Minister can correct me) that it covers normal development for any sort of business within a council area. I commend the member for Stuart's move to have this development go not only to the Development Assessment Commission but also to local council.

The only problem I have with his amendment to clause 10 is that category 2 does not go far enough. In a street of residential properties, two adjoining houses could be notified a brothel was going up between them, but across the road and in the surrounding suburbs, if the brothel fits all the categories within the exclusion zone, the residents would not be notified. I think this amendment is eminently sensible. It still retains basically of the same substance as the amendment moved by the member for Stuart, so I commend it to the committee.

The CHAIRMAN: It is now appropriate for the two alternative amendments plus the amendment moved by the member for Peake to the amendment that has been moved by the member for Stuart to be canvassed.

Mr MEIER: As members are aware, I am opposed to this bill, but I am happy to support this amendment if I believe it will add something to the regulation of the prostitution industry. Having read both the minister's and the member for Stuart's amendments, I think the wording is almost identical, except that the minister's amendment has several additional subclauses. I fully understand what the member for Peake has moved in order to strengthen it even further. Will the minister explain the difference between his amendment and that of the member for Stuart?

The CHAIRMAN: Order! This is very complex. I suggest that we try to cut down on the conversations taking

place so that we can all concentrate on what is before the committee.

The Hon. M.K. BRINDAL: There is probably no more critical clause in this bill than clause 10. There is a fundamental difference between my amendment and the amendment moved by the member for Stuart, and it is this. My amendment carefully and deliberately puts the planning control in the hands of the Development Assessment Commission. The member for Stuart's amendment carefully transfers the planning permission from the hands of the Development Assessment Commission into the hands of the local council.

Mr Koutsantonis interjecting:

The Hon. M.K. BRINDAL: If the member for Peake would stop being an expert for a minute and listen to my explanation, I will listen to his. If I understand the member for Stuart's amendment correctly, the application would not go to the Development Assessment Commission.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: I find that absolutely offensive. The fact is that under the member for Stuart's amendment and even more under the member for Peake's amendment it becomes much easier to object, and that is why he is putting it into category 3. In fact, many of the applications would not get to the Development Assessment Commission; they would be knocked out by the council. The member for Stuart has discussed this matter at some length and I know his reasons for moving his amendment, but the committee should understand that if it accepts the member for Stuart's amendment it effectively means that this committee is giving local councils authority over brothels, and that would effectively gut the bill.

Members interjecting:

The Hon. M.K. BRINDAL: It may well be in *Hansard*, but I ask the committee to think what it is doing, for this reason. This concerns locally elected councillors. It is difficult enough for this committee to pass a reform law on prostitution. What members are now trying to do is give local people a say.

Mr Venning interjecting:

The Hon. M.K. BRINDAL: The member for Schubert would know that this is on the record, and I would say to him that there are councillors in the Barossa council who, having realised that he has waxed lyrical about their having to take this responsibility, might not thank him. As the member for Schubert says, I have been the Minister for Local Government, and many local councillors have said to me, 'This is a decision we do not want to make. It is a decision of the state government, and we do not want to be involved. It is simply not fair of you as a parliament to foist this upon us so that we have to make the decisions.'

Mr Atkinson: What does the LGA say?

The Hon. M.K. BRINDAL: I do not lie to this House; I am repeating what I have been told by members of councils—not all members and not the LGA—but members of councils. Members should understand that what this would do absolutely and effectively is make every council decide whether to allow brothels in their council area. If any member of this committee can say, 'I know my council will allow it,' I will be very surprised. I doubt that there is a council in this state that will allow a brothel in their area. That means that we might still have a wonderful model; there will be brothels in Cook and Cockburn and everywhere that is not in a council area because we will not be able to stop them, but there will not be any in areas where there is local government.

Mr McEwen interjecting:

The Hon. M.K. BRINDAL: The member for MacKillop interjects: 'That's rubbish.' This will be a long night. I treat him with a bit of respect and I expect the same sort of treatment. If he wants to be an instant expert on this matter, let him be so; I will do my best and I expect a bit of courtesy.

Mr Koutsantonis interjecting:

Mr CLARKE: As the member for Peake rightly puts it, I am bigger and uglier than the rest of them. I have been listening very carefully to the debate on these matters, and I would agree with the minister. I do not necessarily agree with him on a lot of things, but on this bill and his amendments I believe he is right. My only note of caution (and I am not being gratuitous about it) is that the minister will be taunted considerably during the night and, rather than adopt the same aggressive tone towards us as he would in question time, I suggest he adopt a more conciliatory tone, despite the taunts he will get from the member for Spence and the member for MacKillop, because ultimately he will prevail.

The point I want to raise about the member for Stuart's amendment is that, if the committee were to adopt it and it passed into law, state parliament will have abrogated its responsibilities and flick passed the responsibility to local government as to whether or not legal brothels can operate. In other words, once again we will have shown a complete lack of spine because, at the end of the day, if this parliament does not legalise brothels, vote against it completely. Do not try to do it through the back door simply by saying, 'Well, what we will do to make us feel good, going back to our electorate and various interests groups, is to say—'

Mr McEwen interjecting:

Mr CLARKE: The member for Gordon does not want to be too precious about this; we all know that his real views and the way he votes are different. He wants the reform to go through but he does not want to have to put up his hand.

Members interjecting:

Mr CLARKE: If they want to start being precious about it, they will get nailed to the cross—with general respect to the members of the gallery.

Members interjecting:

The CHAIRMAN: Order! The member for Ross Smith.

Mr CLARKE: So, basically, it is hard enough to get 47 members of parliament in this place to show a bit of spine one way or the other; how will we expect a bit of spine in the 60-odd local government authorities? In addition, how can you tolerate a parliament of this state passing a law saying we delegate to a local government body our authority as to what is or is not lawful and have inconsistent rulings as to whether a brothel will be established from one local council district to another? It is a nonsense. We live in one state; we live in the state of South Australia. Either the law applies across the board throughout the state or it does not. The member for Stuart is trying to flick pass the responsibility to local government and effectively destroy any reform. I do not mind if that is the majority decision of this parliament, but let the majority of members vote that way and not say, like Pontius Pilot, 'We pass the poison chalice onto a lower tier of government.'

Mr Snelling interjecting:

Mr CLARKE: I am the first to admit that the honourable member knows a hell of a lot more about the Bible than I do. I readily admit that. I want to save the rest of my questions for the minister's amendment, because I do have some concerns with respect to his new paragraph (d)(iii) which provides:

the premises would have more than eight rooms available for the provision of sexual services;

Whilst that may be the number of rooms that encapsulates the largest brothel that may now be operating in South Australia, I would think that if this law comes into being and we were to transpose those eight rooms into new brothels in some other suburbs that are not already there, that is a significant sized operation. I would like to address a few questions to the minister about the rationale of grandfathering or grandparenting, if you want to call it that, of eight rooms as at this time but thereafter a smaller number of maximum rooms that can operate into the future. However, I need to have more specific information from the minister about that before I just pluck a number out of the air.

In relation to the member for Peake's amendment, I would be interested to know from the minister about the consequences to his amendment if category 2 moved to category 3 in terms of broadening the scope of advice that the DAC would be required to give to residents in an area. In other words, I have some concerns, just as the member for Peake has, that it is only the residents of adjoining—

Mr Koutsantonis interjecting:

Mr CLARKE: Do not tempt me—properties to the proposed brothel who are notified. Obviously, a brothel has a broader impact on all the houses in the street and the immediate surrounding area. Residents, broader than those in just adjoining properties, have a right to know because it can impact on them. I would be interested to know from the minister whether or not going from category 2 to category 3 creates such a violent reaction that it would destroy the intent of his amendment, because I do have some sympathy for the member for Peake's point of view.

The Hon. M.K. BRINDAL: I thank the member for Ross Smith for his contribution; it was very well explained and succinctly described the problem here, and I thank him for that, genuinely. I would counsel the honourable member not to get rattled, as he counselled me. Seriously, to go from category 2 to category 3 in either of these definitions means that, rather than just having to notify neighbours, a general notification must be made which gives rise to a general right of appeal. Under category 3 it means—

An honourable member interjecting:

The Hon. M.K. BRINDAL: The member interjects that everyone in the street could come, and that is correct. Everyone in the street could come, but a church that had a particular moral objection to this 50 miles away could object. A group could object—

Mr Koutsantonis interjecting:

The Hon. M.K. BRINDAL: The member for Peake says no. The advice that I am given—

Mr Koutsantonis: Fifty miles away?

The Hon. M.K. BRINDAL: Yes, it is a general right of appeal. It is what is sometimes called third party appeal rights: anyone could appeal. Judging from the member for Peake's reaction in this House, I would be very disappointed if the member for Peake was not a person who sought the right to appeal against a brothel. He would have that right, as would every other member who objects here. I expect that, if this parliament passes this bill, the first objectors will be all those in this place who do not want this bill to go through, and so they should be; that is how general the right of appeal will be.

Mr VENNING: I have not spoken since my second reading contribution, but I am compelled to speak now. I will continue to vote against this bill and again at the third reading stage, but I am moved to support the amendment moved by the member for Stuart. I also support, without conflict, the amendment moved by the member for Peake. As its Presiding Member, I can say that the ERD Committee constantly approves developments. The committee is involved with PAR's, non-complying developments and those in categories 1, 2 and 3. As the minister said, this amendment provides a full consultation process with a full right of appeal.

We could have some powerful enemies in councils if we get this wrong and foist on them and their communities brothels where they do not want them. Certainly, that would be a huge stick with which councils could beat us. Councils must be part of this process. They must at least feel that they own part of the process and, under category 3, councils can give their residents—even though, as the minister said, they might not have the courage to make a decision—the right to appeal. The matter can then go through due process. DAC can still be involved. The legislation can be worded so that, in terms of a final decision, DAC is still involved.

The minister has probably not said it in this instance, but I think DAC must be involved because we do not want to see a proliferation of brothels in certain parts of our city, even though council boundaries are crossed. DAC crosses council boundaries, so I believe that it should always be involved. This is on the record and I hope that we can include that, too.

I repeat: councils must be part of the process. Minister, will you tell the people that they do not have the right to appeal? Will you tell them that, because I am not going to? That is the bottom line. If you intend to refuse people the right of appeal, put that to your electorate and see how you get on. This is all on the record. Give people a say in this matter. Under category 3 if I want to establish a non-complying development, or even a development that complies, near a residential area, I must apply to council. I must go through the full process. Surely a brothel could fall within the same category as an unpopular or difficult business, particularly in relation to residential areas.

I think I can constitutionally vote for both amendments, because I believe that they do not conflict with each other; in fact, I believe that they complement one another. I commend the amendments of the members for Stuart and Peake.

Ms BEDFORD: The member for Ross Smith raised with the minister a point that appears in all three amendments to clause 10 relating to the number of rooms in premises. Can the minister clarify how the number eight was arrived at?

The Hon. M.K. BRINDAL: It was interesting. I attended a meeting in relation to the introduction of these bills before the parliament, and I saw that provision. I said, 'How did you arrive at the number eight?' The answer was that the officers did some research. It is perhaps not unique but apparently in Adelaide even the largest of the brothels is not very large by Australian standards, and certainly not by international standards. By doing some sort of market research around the city and its environs and, indeed, the state and its environs, it was found that eight rooms represented one of the larger establishments in Adelaide. The officers felt that that was probably as large and as intrusive as we would ever want the industry to be.

The officers simply looked at the operation in Adelaide, which is largely, by interstate standards, boutique, and said, 'Well, this is about the biggest we think that we would want here. We want no more than this.' They therefore arrived at a standard, basically based on current practices. It is a maximum.

Mr WILLIAMS: I rise to support both the amendments of the members for Stuart and Peake. Before I speak to those amendments, I want to comment on the minister's reaction to my interjection 'Rubbish!' I must admit that I was a little disappointed at the minister's reaction. The minister implied to the committee—and this is the way I heard it, and I will be corrected if this is not what the minister said—that if the local government authority had control over the Development Act, as per the amendment proposed by the member for Stuart, it would mean that in towns such as Cook—I think Cook was the town the minister referred to—there automatically would not be any authority governing the Development Act. I think that the minister was implying that, because Cook happens to be in an unincorporated area and there is no local council, there would be nobody to administer the Development Act. I said 'Rubbish!' because I believe that is rubbish. Under those circumstances the Development Assessment Commission would automatically become the appropriate authority to administer the Development Act in that unincorporated area. That is the reason I said 'Rubbish!'—because I thought it was rubbish, and I stand by that. The minister may correct me if I am wrong. It is my opinion that the Development Assessment Commission would be the authority under those circumstances.

In the first instance, I will speak to the member for Peake's amendment, on which there has been some discussion around the corridors. The Development Act provides that, with regard to a category 2 development, an applicant must give notice in accordance with the regulations to an owner/occupier of each piece of adjacent land and any other persons of a prescribed class. If the minister wanted in his amendment more than just the neighbour, just the bare minimum, to be aware of the proposed development, it would have been very easy for him in further clauses in his bill to indicate what that prescribed class might be; for example, it might be within a circumference of some hundreds of metres, half a kilometre or whatever, of the proposed development, and that would have been easy to do. I agree with the minister that going to a category 3 does open it up to a general appeal which is much wider than the minister would like. I do not have a problem with that, because appeals are still subject to provisions of the Development Act and the Planning Amendment Review.

Mr Venning interjecting:

Mr WILLIAMS: Certainly, they cannot be denied. Members may be looking only at the situation in the metropolitan area. I would be devastated if some people in local towns in my area found out that the property next door to them but one was being turned into a brothel and the first time they were aware of this was when it started business, after it had received all the approvals. I would be devastated, as would all those in my electorate, in all the communities. The member for Stuart's amendment gets back to the philosophy of the Development Act and what development planning in South Australia is all about. About 20 years ago the process of planning was given to local government in South Australia, and local government has been responsible for planning in the local area for all those years. Local government has been responsible for planning and development matters in their local communities on all but major proposals—all but proposals that had a statewide impact. If a proposal has only a local impact, what on earth is wrong with having the local planning authority, which has existed for 20-odd years, assess whether this is something that it wants in that area? Why should not the local authority be the appropriate planning authority? I cannot understand that, other than—

Mr Koutsantonis: They're afraid.

Mr WILLIAMS: That is the nub of it. The proponents of this measure do not want these brothels to be subject to local people having a say as to whether or not they want them in their backyard. I have serious concerns about making this an exception to the rule under the Development Act and taking the power away from the local government authority. When the Minister for Water Resources was Minister for Local Government he was a very respected minister and he got on well with the local government authorities in my electorate. However, they would be somewhat disappointed that he has this lack of faith in them to be the authority administering the Development Act with respect to brothels in their local areas. The minister should remember that in my electorate those areas are hundreds of miles away from the metropolitan area of Adelaide. He should also remember that the people who make the decision sit on the Development Assessment Commission and the anonymity that would give them. In no way, shape or form is it fair on those communities that those people make a decision. I urge the minister to rethink this clause and support the amendments of the members for Stuart and Peake. I commend both amendments to the committee.

The Hon. M.K. BRINDAL: I repudiate on my own behalf and on behalf of those who would seek to—

Mr LEWIS: I rise on a point of order, Mr Chairman. Does the minister really speak with the authority of the government in this legislation?

The Hon. M.K. Brindal interjecting:

Mr LEWIS: In that case, why does he always have the right of reply to every speaker on any clause?

The CHAIRMAN: The minister has carriage of the bill, and as such it is presumed that the minister is speaking on behalf of the government in connection with this legislation.

Mr KOUTSANTONIS: I am not trying to stop what has already been passed here. I am saying not that there should not be any brothels but that as local members of parliament we know what it is like when people come to see us about developments in their area. We should let residents be armed if they want to fight this. If the minister's amendment gets up, his constituents will not be informed if a brothel is going up in their suburb: only adjoining houses will be informed. I am arguing that more people than merely those living in adjoining houses should be notified that a brothel is to operate. If members believe that prostitution should be legalised and it should be a business that can function legally in South Australia, why be afraid of letting local residents know that it will be operating near them? We require delis, video stores, factories, foundries and taxi ranks to go through this kind of development approval. Why not a brothel? What do we fear? Why be afraid to let local residents—other than those in adjoining houses—know there will be a brothel in their neighbourhood?

Members opposite have won the day; they have won with the bill. There will be legalised prostitution in South Australia. All we are saying is, now that members opposite have won the day, they should make it fair for residents who want to be forewarned about a brothel in their street, not just for those living in adjoining houses. We are saying not that we should ban prostitution but that we should let the people concerned have a say in the process. Then the minister says that we are trying in an underhanded way to recriminalise prostitution by not letting it operate and by letting councils

have a say. If category 3 is passed, they have a right of appeal to the DAC, anyway. They have a right to go there anyway. If local government knocks it off—as they probably will; I concede that to the minister—it goes to the DAC, anyway. Let residents have rights but have their say. Members opposite have won the day. There is no need to go any further now. We are saying that residents should be empowered to do something about it rather than just coming to us and saying, 'You as a member of parliament are responsible for this. You're the one who has put the brothel next door to me, not the DAC.'

Mr McEWEN: We have arrived at the cross roads in terms of the debate on this bill. There is the opportunity at this time for people who, like myself, have supported the summary offences bill and been defeated to attempt to use this as a backdoor method to achieve the same objective. I put on the record that I am not motivated in that regard by standing here now to express support for the amendment of the member for Peake to the member for Stuart's original amendment.

I also make the point that there is an even simpler way to achieve this, namely, to return to the principal act. Rather than now trying to deal with the way we manage developments within the prostitution bill, we ought, if we were good legislators, to return to the Development Act 1993, which is what the member for Spence did in his original bill. Correspondence from the Local Government Association stated:

> The Local Government Association recently received a copy of the fifth prostitution bill introduced to the parliament by Michael Atkinson, MP. This is in accordance with the endorsed LGA policy position.

These amendments achieve much the same thing. I might ask the minister whether it is necessary to say that development is regarded as being assigned to category 3 because the principal act actually says that any development that is not assigned to a category under A will be taken to be a category 3 development for the purposes of this section. It may not be necessary to assign it at all, which again would give the local planning authority the opportunity to assign it if it so chose. Local government may decide to assign it to category 1 or 2, and it should have that opportunity. By assigning it specifically to category 3, we may not be achieving the very objective that we are setting out to achieve, namely, not to deny local government their democratic opportunity to participate in this complex planning matter.

Having said that, the alternative of taking local government out of the process is not acceptable, particularly in rural communities. Communities do not want to see DAC at arm's length imposing planning conditions on them, particularly ones of such a complex nature that can have such a big impact on a small community. I cannot abide by any bill that actually suggests that the authority under the Development Act is excised from local government for a specific land use, in this case prostitution. I need to find a way, mindful of the fact that the intention here is not to sabotage the bill but to maintain an element of democracy in the overall process. We should not have the right to do anything other than that.

We would not be happy if the federal government chose to take out of the hands of state government a significant planning matter simply because they felt that we were too close to it and therefore would not make decisions on their merit. The Premier has already argued that the Prime Minister dare not take out of the hands of this parliament any decisions about high and medium level radioactive waste dumps in South Australia, simply because they are concerned that we will not be skilled enough to make a genuine decision.

Suddenly we have one principle that suits us in arguing with the federal government, and the instant we find ourselves juxtapositioned to local government we do not want to run with the same argument. That is totally intolerable. We must recognise that we are one of three spheres of government in a truly democratic process and we cannot, just because it suits us on this occasion, say that we will ignore the Development Act 1993 and impose some other planning regime within a prostitution bill simply because the alternative may be a bit tougher to carry.

There is a question somewhere in here, and I appreciate that the minister is in an unenviable position in having carriage of the bill. I will support the amendment of the member for Peake to the member for Stuart's amendment, but in so doing I simply ask whether or not we need specifically to assign it to category 3.

The Hon. D.C. KOTZ: I will support the amendment moved by the member for Stuart and the amendment to the amendment by the member for Peake. In the bill we are debating at the moment the Development Assessment Commission is the nominated planning authority. There would appear to be a rationale, in doing this, of removing local politics from the decision making process. However, I suggest that the removal of local decision making for local issues is indeed and in fact inconsistent with the state government's already stated approach for planning in South Australia.

I would like members to consider that seriously because government members are part and parcel of making decisions on this bill, and to go in the complete and direct opposite direction to the stated approaches to planning in South Australia I do not believe is very helpful in making this bill some form of precedent that we have not seen in any others.

I also put on the record the comments made by the Local Government Association on behalf of local government councils, because several different comments have been made in this House that contradict some of the comments that I have had from local councils. I will read into the record comments made by the Local Government Association in a letter to me on the prostitution bills. It is the LGA submission and signed by the President of the LGA, Mr Brian Hurn. In part it states:

> If prostitution is legalised, the number of applications for brothels is likely to increase and the assessments of these land uses would be compromised by the radical assessment system proposed in the prostitution (licensing), (registration) and (regulation) bills, particularly as there is no requirement for consultation by DAC with councils.

The LGA goes on to say:

> The LGA is pleased to attach the following submission in relation to the four prostitution bills. The submission is based on LGA policy and extensive consultation with councils, including a comprehensive survey process. The submission also incorporates legal advice obtained by the LGA on the implications of the four bills for local government.
>
> The significant and consistent feedback from local government on the bills includes (the level of agreement from councils is shown in brackets expressed in percentages):

I will now read them as printed in the letter. The first one says:

> 1. Councils are best placed to assess the local dynamics associated with 'brothel' applications (91 per cent of councils agree).
>
> 2. Assigning five criteria to assess brothels over-simplifies the planning issues.

It states that 100 per cent of councils agreed with that statement. It continues:

3. The development plan is the most appropriate document to assign the assessment criteria.

Again, 100 per cent supported that comment. It continues:

4. The creation of a separate assessment process for brothels is unnecessary (90 per cent).
5. The proposed transitional provisions are not supported (100 per cent).
6. The segregation of brothel applications from the normal development assessment process is in clear conflict with the objectives of the state government (Development) System Improvement Program (86 per cent).

They conclude by saying:

Local government is seeking a more comprehensive and well-rounded approach to assessing land use applications associated with prostitution.

It would be highly offensive for anyone in this chamber to consider that those of us who well know we have been defeated with the summary offences bill would not at this point in time attempt to do the very best we can in terms of making sure that the planning and development of any moves that the end results of these bills will take into development areas are not done in the best means possible.

I can assure members that that is my intent, as many other members of this chamber have already assessed. I ask the minister once again just to consider, when we are talking about local government taking over to look at planning and assessment of brothels in local areas, many of us here believe that that is the correct way to go. In fact, planning in South Australia by this state government, as the minister well knows, has moved towards greater partnerships with local government.

We continually move to assure them that, in all aspects of the three tiers of government, local government is one of the most important tiers in many of the things we do, particularly those things that are relative to on-the-ground applications of development. I consider that, in terms of brothel applications, we certainly are looking at something that is very close to the home of every resident throughout South Australia, which means in local government areas.

I conclude with those comments but ask the minister seriously to consider that this is not any attempt to flout anything that the opposition at this stage may have won in terms of the regulation of brothels. It is a very serious attempt to make sure that the regulation of development is done in a very planned, concise and rational manner.

The Hon. M.K. BRINDAL: I understand exactly what it is that members (especially the member for Stuart and the Minister for Local Government) seek and what they think they are trying to achieve, and my difference with them is this: if you ask any sphere of government whether it wants more power, more ability to do this, that or something else, I know no sphere of government in which almost 100 per cent will not say yes.

The problem is that, when the commonwealth confers on us or we confer on local government an additional responsibility, we then have to exercise the responsibility. The member for Ross Smith very carefully made the point that to ask local councillors, who work assiduously but part time and who live in the local community and are subject to the wills and pressures of the local community, to take these decisions is to ask them to have a level of courage that this House has agonised over for a long time.

The Hon. D.C. Kotz interjecting:

The Hon. M.K. BRINDAL: I listened to the minister in silence, so I hope the minister will listen to me in silence. That is asking a lot of them. I am mindful of a small incident that occurred in the bible. When they caught Jesus and sought to try him, they knew what they wanted to do: they wanted to be rid of him; but nobody could make the decision. So he was hustled from pillar to post with everyone denying jurisdiction, simply because nobody wanted to have the courage to make the decision.

Mr Lewis: I can relate to that.

The Hon. M.K. BRINDAL: I am sure you can. So, that is at issue here. The member for Ross Smith made the point very well that, if this parliament is going to make the decision to make this a legal activity, then the parliament must make the decision and not encumber local government.

The Hon. D.C. Kotz interjecting:

The Hon. M.K. BRINDAL: The minister disagrees, but this is the point I am making. I understand her point, but I am trying to explain mine, that to give this point away encumbers it. People in this debate have said 'local residents'. I draw everyone's attention back to this fact: there will be no local resident neighbours.

This bill provides that no brothel can be built in a residential suburb or in a place designated to be a residential suburb, so none of those neighbours will be houses, residents or anything other than shops, factories—

The Hon. D.C. Kotz: Schools, churches, recreational areas, child-care centres.

The Hon. M.K. BRINDAL: I ask the minister to look at the bill, which provides these facilities at, I believe, the request of people who specifically sought this. In an effort of conciliation, the bill says 200 metres. So, the nearest school, child-care centre or recreation centre, the nearest place where anyone of that category would be involved, is 200 metres away. So, the neighbours we are talking about are not residents, not churches, not schools, not recreation areas, because by definition they will be 200 metres minimum away.

It is not as if we are talking about building a brothel next door. I ask members to consider this. A very important part of this debate tonight from almost every person in this House is: how do we ensure that an illegal industry does not grow up? How do we stop the sleazy underbelly of this industry? This parliament earlier tonight in the second reading voted for the most liberalised bill to minimise the advent of this.

I remind the member for Colton that, because in this bill this becomes a business activity, the only illegal brothels will be those that are built other than those conforming with planning law or those on which there is a banning order. So, it will be very difficult to have illegal brothels in the system save for this. If a council declares that it will have no brothels in its area and someone wants to open one in its area, you get an illegal brothel. You start to get the very thing we are trying to stop.

If you have councils all over Adelaide using planning law to block the existence of brothels, those brothels will exist in exactly the same way they do now, that is, illegally. I put to this House that the mechanism that seeks to empower and involve local people will perhaps create the very illegal industry or the proliferation—because I acknowledge the member for Colton's comment that we will never really wipe it out—but it will encourage the proliferation of illegality and a larger illegal system because it simply will make it more difficult for people to get permission.

I do not know if the member for Colton went to Melbourne, but the thing most wrong with the Melbourne system, the thing that creates this huge illegal brothel industry in Melbourne, is the planning law. It is the planning law that stopped what was the illegal industry from becoming legal. It is the planning law that makes most of the brothel industry in Victoria illegal.

All I am saying in this legislation is that if councils will take the responsibility but they will not accept it and look at this matter rationally and dispassionately, they may go into the council chamber and say, 'Ten people have told me to vote against this, therefore I will vote against it.'

The member for Colton has been in local government for many years. He knows the power of local electors on individual councillors, and sometimes not very many local electors. The member for Colton knows how easily they may be swayed. We are asking them to accept a responsibility that I believe is ours.

It is not that I deny the veracity of what the Minister for Local Government is saying, but in this case, with this particular law, on this particular issue which is so contentious and which has so occupied this House, it is simply unfair, as the member for Ross Smith says, to transfer the responsibility to another area of government.

Mr KOUTSANTONIS: The member for Unley raised a very important point. Members on this side of the committee represent areas that are mixed industrial and residential. Members on this side of the committee represent areas like Thebarton and Torrensville where, if you draw a line in the street, one side is industrial and one is residential. So do not sit here and tell me that people will not be living next to brothels, when they will be. I find that offensive.

Because the member for Unley resides in Goodwood, in an area that is much more plush than where I live, he thinks that our constituents will not be living near brothels. What arrant nonsense. For my constituents in Thebarton in streets such as Dove Street, one side of the street is residential and one side is industrial. Under the member for Unley's plan, they will not be notified if there is a brothel on the industrial side. Thank you very much, minister, for your consideration.

I know the 'good eggs' of Unley in Frederick Street and the 'good eggs' of Parkside in Dunn Street which have no industrial areas right next to them, will not have to worry about it. But my constituents will. I know that the member for Unley, who has moved seats a few times but who now resides in leafy Unley, a very good seat for the Liberal Party, will not have to worry about this and we on this side of the House will.

I will not sit here and have the member for Unley tell me that residents will not be affected, when he knows full well that they will. There is deceit in his explanation, and I find that offensive. How dare he come into this committee and try to explain it away, knowing full well, having been the Minister for Local Government at one stage, that residential boundaries and industrial boundaries are next to each other and sometimes it is just a road that separates them. I find that offensive and I say to the minister that the only way to fix up this problem is by supporting my amendment.

The Hon. M.K. BRINDAL: If the member for Peake's amendment passes this committee—and it is not my will but the will of this committee that is sovereign—he may well rue his remarks.

Mr Koutsantonis: Am I right or not right?

The Hon. M.K. BRINDAL: You are not right.

Mr Koutsantonis interjecting:

The Hon. M.K. BRINDAL: I listened to you: you listen to me. First, I represent Unley, and there are brothels in Unley as we speak. Under this legislation there will be brothels in Unley. There are parts of Unley—and I can tell the honourable member about some that I have looked at—which, under this legislation, would be quite suitable for a brothel. So, Unley is not exempt. Neither is any eastern suburb. I know of many eastern suburbs where there are brothels. So this absolute reverse—

Mr Koutsantonis interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: —snobbery of some members—

Mr Koutsantonis interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: Thankfully, only a few members of the Labor Party indulge in saying that all the brothels will be in their area. That is arrant nonsense. There are brothels all over Adelaide. Brothels will not have to shift out of Unley because of this legislation. I ask the member for Peake to consider this, because I know that he has this problem, if not in his area very close to his area. Council boundaries consist of single roads. The member for Peake just waxed lyrical about single roads. On one side of some council boundaries there are residential areas; on other sides there are light industrial and commercial areas. Under the member for Peake's amendment, it would be not only possible but absolutely feasible that one council area could approve a brothel that is directly across the road from a residential area in another council area.

Mr Koutsantonis interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: Therefore, the very problem that he seeks to solve would be perpetuated.

Mr Koutsantonis interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: The fact is that, by involving, as the member for Ross Smith said very well, the DAC as an arbiter in this, by involving a quasi-judicial, semi-independent or an authority independent from the arm of government to make these decisions, they can be made in a consistent and rational manner away from the political process and the interference of anything other than good and proper process. I commend to the member for Peake and others a perusal of these clauses, because it is not as though the DAC will act in isolation from the councils.

Mr Koutsantonis interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: The council approves a development plan. That is the council's right. The DAC, when approving any measure under this bill, must take note of the development plan of the council. So, the council can develop its development plan. The DAC receives the application and, as part of the process, is bound to look at the council's development plan, which expresses what the council, through its local people, wants.

What we are seeking is a reasonably simple and consistent principle. I believe that there are people looking at planning law as we speak. One of the problems with planning law in this state is that, at local government level, the people in the council who are charged with the development of the plan then sit in approval of applications under their own plan. They are, if you like, both the regulator and the policeman: they create the plan and they police it.

It is considered a good principle in government that if you are in charge of something or if you regulate something you do not generally police it. I believe that the review of the Planning Act is attempting to address this. The proposition in this amendment which I am putting before this parliament attempts to address this by taking notice of local people through their council and through their development plan but separating the emotion and the emotiveness of the planning approval from the council chamber and giving it to the DAC. I think that is sensible and logical and that it puts the responsibility where it belongs. It does not duckshove it onto local councillors so that, when they come through the door, we can say, 'It's not our fault, that's a planning matter. If you want it to be changed, tell your local council; blame your local councillor'.

I want to be able to say to my electors that I was part of this; that, rightly or wrongly, the buck stops here. I hope that most members of this House will have the intestinal fortitude to stick up for themselves and back their own convictions and not try to wheedle and sidle out of something by shoving it onto other people.

Mr SCALZI: I support the amendments of the member for Peake and the member for Stuart. I had my say: I voted for the summary offences bill. I was able to exercise my democratic right to consult with my constituents, local government and the people who petitioned me—and I had my say. I want local government to have the same democratic right as I had today, not to approve or disapprove of prostitution in general for the whole state, but to have the democratic right for their constituency or area.

I find the language confusing. On the one hand, the proponents of this bill say that there is widespread acceptance of prostitution, that the community wants it. The language is that we have sex workers and the sex industry and that everyone seems to want this reform. On the other hand, the minister says that it is so difficult to get approval that we should not put it into the hands of local government. We are sending confusing messages.

All I want is for my local council areas to have the same right as I had this afternoon to make decisions for those areas. As the local government minister has said so succinctly: 91 per cent of councils wanted to move to category 3. We did not impose on local government things such as the collection of the emergency services levy. Local government rightly says that it does not have enough powers in respect of phone towers. When it suits them, members of this place say that local government should have more power. I would like to refer to one of the local government bodies in my area, that is, the City of Norwood, Payneham and St Peters. The member for Norwood should take note. A recommendation states:

1. Council objects to the creation of a separate assessment system for brothels. Applications for brothels should be assessed in the existing development assessment system established under the Development Act 1993; and

2. The following minimum requirements be included in the prostitution bills for the assessment of applications for brothels, if the separate assessment system is to proceed:

(a) Referral of all applications to the relevant councils for comment and report.

(b) Categorisation of all applications as category 3 development allowing representation and appeal rights.

(c) The requirement of the assessment criteria include all the relevant provisions of the development plan and, where relevant, the Development Act.

I would be negligent as the local member if I did not come into this place and represent my area, and that is all I am doing. Of course, the local government minister summed it up: let us give the democratic right—as the minister so succinctly put it—to local government. If there is wide acceptance out there, he should not be afraid of it. We are told, 'The local councillors will have less courage than us.' Who am I to make a judgement as to their courage? I would be greatly offended if a federal member in my area told me that I did not have the courage to make decisions at a state level. Let us not—

Mr Lewis interjecting:

Mr SCALZI: Of course, he wouldn't. Let us not say that of our local government.

Mr SNELLING: The amendments circulated by the minister require that brothels are not to be established in residential areas. He and I both know that at this very moment many brothels are operating in residential areas. Will the effect of this change be to take them out of residential areas and put them into areas that are zoned otherwise; and if that happens does that mean there will be a concentration of brothels in various parts of Adelaide?

The brothels will not be given approval to set up in shopping centres and commercial areas. I envisage that the areas for which brothels will be given planning approval will be light industrial areas. My concern is that there will be a concentration of brothels in the light industrial areas around Adelaide where people live. My electorate has a reasonably large light industrial estate in Pooraka, as have the northern and north-western and also the far southern suburbs of Adelaide. If there are any brothels in my electorate in residential areas, I have to say that they are not causing any nuisance because I am sure I would have had complaints about them if they were.

Will these brothels, which are often not causing any nuisance and which operate without local residents being aware they exist, be taken out of the residential areas and be concentrated in the light industrial areas of Adelaide, and therefore be concentrated in the northern and north-western suburbs and the far southern suburbs of Adelaide?

The Hon. M.K. BRINDAL: That is a very interesting and complex question to which there is no easy answer. At the time of the vote we had in another parliament at another time, I remember the member for Spence waxing lyrical about the number of brothels in his area. I had done some homework and I asked him whether he knew how many, and he underestimated by a quantum of half, I think.

Mr Atkinson: That was not a bad effort: they are moving all the time.

The Hon. M.K. BRINDAL: The member for Spence was having the problem to which the honourable member is alluding in his comments, that is, the brothels were not a nuisance and no-one knew they were there. In relation to the first part of the honourable member's question, yes, for a brothel to be lawful it could no longer exist in a residential area. One would suspect that, if a brothel owner wanting to have a lawful brothel were to move that way, they would have to move into another area. I do not accept necessarily 'light industrial'; I think there are commercial precincts in which it is probably quite acceptable and even better than light industrial; but they would have to move. We have this conundrum because, as the honourable member knows, if they are no nuisance, if no-one knows they are there and if they are not causing anyone any offence, it may be that the owner, knowing that they are still unlawful, would choose to let things happen as they happen and continue. Admittedly,

this legislation will make that operation unlawful if they are discovered.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: The member for Spence says that it is a pity. The fact is that they are already unlawful. If they are discovered, they are unlawful now. They will be no more unlawful than they already are. I support this committee in this: I do not want brothels to be a nuisance in residential areas. I concede that if they are in residential areas and we do not know about it—

Mr Atkinson: Then leave them alone.

The Hon. M.K. BRINDAL: The member for Spence says, 'Leave them alone.' Good heavens, the member for Spence is the very man who wants them turfed out of the city.

Mr Atkinson: On the contrary: read my bill.

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: I hope the member for Playford gets what I am saying. In theory, they would have to shift but in practice I do not know how many would. There is the spirit of the attempt of this House to use its collective wisdom. I say, frankly, when 200 metres is measured out, it is a fair way. If this bill may in fact have a problem down the track, it is to find suitable areas where a development such as this can occur and which at the same time is 200 metres from all these sorts of facilities. I ask members to contemplate the square mile of the City of Adelaide and consider the number of churches, the number of schools, the number of facilities of the kind we have described, and then draw 200 metres.

Mr Atkinson: There should be no exclusion zone in the City of Adelaide.

The Hon. M.K. BRINDAL: What we propose will make it very difficult and in fact, I think, it is creating a problem.

Members interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: What we are trying to do, as the member for Playford knows, is distil some collective wisdom and some sort of compromise. An amendment was being suggested which proposed 50 metres. People such as the member for Playford said, 'No, this is simply not acceptable. It must be 200 metres.' That is what we are settling on. I am saying 200 metres might cause a problem and the zone might cause a problem. I am not pretending to the member for Playford that, as a new piece of legislation—a very radical piece of legislation—this will be plain sailing or easy. As a competent authority, DAC perhaps represents a more considered and quieter opinion than that of the turbulence of the local council chamber.

Mr LEWIS: I always find the minister's remarks entertaining; I always find them full of eloquence and sophistry; and I am sure that the Unley council will be very interested to read them. I am equally sure that the member for Ross Smith will be pleased when the councils around the area he represents reads his remarks, just as I am sure the councillors in the various councils in the electorate of Hammond will be interested in my remarks.

Notwithstanding the clever explanations given to us by the minister, there were the remarks made to us by the planning minister, who explained in a rigorous but nonetheless expeditious way precisely what the intention of the planning laws is. And that is the way I find the Development Assessment Commission at times: it is more at sea than local government, and it is unaccountable; it is a bureaucracy. It does not have to face the people on whom it imposes its will. It is a little like the licensing commission telling us what can and cannot be done in our hotels, and it makes it extremely difficult to get done at a local level the things that the local people really want.

The CHAIRMAN: Order! I apologise to the member for Hammond. There are far too many little meetings going on at the present time. It is very difficult to hear the member for Hammond, and I would ask—

Members interjecting:

The CHAIRMAN: Order! I ask members to take their seats and keep the level of conversation down so that we can all hear what is being said.

Mr LEWIS: To cut a long story short, I would say that the member for Unley's approach is a bit like the story of Snow White and the seven dwarfs: he wants to sweep the dust under the rug and let someone else do his bidding. The previous minister for planning, who is the minister at the table now and who had the carriage of this matter then, was very astute when he introduced the changes to the law which made it sensible. He convinced me then that he was right, and I know that he remains so.

In simple terms, he said that we should observe the principle of subsidiarity. If you can make the decisions at a local level, you ought to do so. In other places I have heard other people more eloquent than I explain this—people such as Father John. Indeed, when considering similar matters at an earlier time, the member for Spence has explained the importance of this principle. If you can make the decision at a local level, you ought not to attempt to make it in the United Nations. If you can make the decision at a state level you ought not to attempt to make it in Canberra. So, if you can make the decision in the community in the local government chamber, you ought not to be trying to make it by delegating the authority to some obscure, faceless bureaucracy called the Development Assessment Commission, which will never have to face the electors or be accountable to the ratepayers—the neighbours.

Having been convinced by the minister of that when he was Minister for Planning, I now invite him to return to those principles which he so ably espoused during the course of that debate and understand that he is likely to win more affection from all of us if he accepts graciously the wisdom of the member for Stuart's amendment with the amendment to it that is proposed by the member for Peake—hence my reasons for urging the committee to do likewise.

Mr ATKINSON: I support some elements of this clause and not others. Obviously, I support the measure that would prevent the concentration of brothels into a red light district—that is a very important principle—but I am strongly opposed to the proposal to sweep brothel prostitution into the industrial and commercial areas of Adelaide. My principle on this matter is that, if the demand for commercial sex arises in North Adelaide, Kings Park, Wattle Park or One Tree Hill—just to name the home addresses of a few proponents of this bill—it ought to be fulfilled there and not by a trip to one of the poorer areas of metropolitan Adelaide.

The best paper on prostitution that has ever been prepared in this state was prepared by Mr Matthew Goode of the Attorney-General's Department. It is the 1991 edition, and I was pleased to see a copy of it around some of the advisers this afternoon. Matthew Goode warns of the folly of confining brothels to industrial and commercial areas. He writes:

> The planning considerations must be integrated into the existing planning system in a much more coordinated and sympathetic manner than has hitherto been mooted. For example, most obviously, attention must be paid to the detail of non-conforming uses in non-residential zones. Care must be taken that the sensitivity over

location is not taken to such a degree that all brothels are confined to the railyards and refuse areas and that there are sufficient locations available for a realistic and competitive industry to be legal.

This clause in the bill is being precious and confining brothels to industrial and commercial areas, and banning them—

An honourable member interjecting:

Mr ATKINSON: I just told you what was wrong with it, but I will tell you again:

and confining it to (a) areas that are zoned or set apart under the development plan for residential use or (b) is part of a local government area in which residential use is according to the development plan to be encouraged.

So, what we will see is a whole lot of—

Mr Condous: What about mobile brothels?

Mr ATKINSON: The mobile brothels are legal now; they are called escort agencies, and they are 75 per cent of the sex market. What councils will do now is amend their development plan to declare that nearly all their territory could in the future be used for residential purposes in order to keep brothels out of them. There is nothing inherently prejudicial to the amenity of a district in having a brothel in it; it is a matter of how the brothel is managed.

I have great difficulty with that part of the clause and I am reminded of the hit song by Cher entitled 'Gipsies, Tramps and Thieves' in which the key line was: 'Every night all the men would come around and lay their money down.' What we have in this House is people who voted for the second reading of the regulation bill, and now they are desperately trying to keep brothels out of their street, their suburb and their electorate. It is really quite pathetic to see.

I am willing to have brothels in my area; I have always had brothels in the electorate of Spence because of the low real estate prices and our proximity to the central business district. I would like to see the members for Elizabeth, Coles and Adelaide in particular have a similar equanimity to having brothels in their area. The member for Adelaide really takes the prize. Ever since he has been in this parliament he has been a supporter of the legalisation of brothel prostitution. He boasted on his first day in here—

Members interjecting:

Mr ATKINSON: No, Jane Lomax-Smith is exactly the same—there is no difference.

An honourable member interjecting:

Mr ATKINSON: No, Jane Lomax-Smith is the same, no difference. The member for Adelaide boasted on his first day in here that he got the lowest rating from the Festival of Light in a questionnaire. So, he is in favour of brothel prostitution but, guess what, he has this lovely little clause which says that the premises must not be situated within 200 metres of a school or other place used for education, care or recreation of children, church or other place of worship, and what does that mean?

Members interjecting:

The CHAIRMAN: Order!

Members interjecting:

The CHAIRMAN: Order!

Mr ATKINSON: What does that mean? That means that for the City of Adelaide, for the CBD and North Adelaide there will not be one brothel. So the member for Adelaide is in favour of legalised brothel prostitution but not in his backyard.

Mr CONDOUS: In this chamber tonight there are five former chairmen of district councils, mayors and a Lord Mayor, and I refer to the members for MacKillop, Gordon, Kavel, Norwood and me. In addition, probably another six members have a local government background. I am surprised at the former Minister for Local Government because there is a city of Adelaide plan that gives every ratepayer of the city of Adelaide the right to inspect every development application and comment on it before it is approved by the Adelaide City Council. That city of Adelaide plan prohibits uses such as car yards in the city but permits the right uses to go in the right areas.

The member for Spence says that he objects to local government's having a say because it will drive all the brothels into the poorer areas. I would say that every electorate has an area of industrial parks and commercial uses and people do not mind brothels locating in those areas. The leading brothel in Sydney is located in the heart of the North Shore's CBD at Milsons Point. I looked at the latest brothel being built at Homebush Bay at a cost in excess of $2 million. That is located in an industrial park and neither owner either side of it object to its being there.

I just cannot believe that we do not want to give people, who pay the rates and who allow our suburbs to be beautified and developed to enhance the living amenity, the opportunity to comment on whether a brothel should locate in a residential street. We are saying: allow them to go anywhere they want, especially if it is a cottage industry and a one-person operation because it will enhance your grandmother's living amenity and it is only right that they should go there. Let us get serious about it. I say to the minister that councils will approve provided brothels are in the right location. I cannot see why, if this is going ahead, they cannot be located in areas which are zoned for business and which will not do any damage to the living amenity of the people in that area.

Mr Atkinson: People live in industrial areas as well; people live in Beverley and in Bowden.

The CHAIRMAN: Order!

Mr CONDOUS: I will not say exactly where they should go because no matter what district I mention I will get some backlash. The Development Assessment Commission does not know a suburb intimately: local councillors do because they are in it all the time, they are talking to the ratepayers, they are in touch and they should be the people to make the decisions. I would be disappointed tonight if people who have a local government background did not support this proposal. Members with a local government background should support local government in terms of allowing it to make the final decision. The debate on this clause has now taken over two hours and I move that the motion be put.

The CHAIRMAN: Order!

Mr Hanna: Just put the motion, please, sir.

The CHAIRMAN: Order! This situation has not occurred in committee, I am told, for some 30 years. The standing orders contemplate the opportunity for the motion to be put in the House but not in committee.

Members interjecting:

The CHAIRMAN: Order! The minister.

The Hon. M.K. BRINDAL: I think that the whole committee accepts the spirit of what the member for Colton was saying and I think that we have just about exhausted this point. The member for MacKillop has foreshadowed a further amendment to this clause. I was about to say that the committee realises that I am in a difficult position in that, while I might have the status of lead minister in this bill, I cannot, because it is a conscience vote, speak with the authority of the government. Nevertheless, I can to my colleagues in another place, as the member for Elizabeth can

to her colleagues in another place, speak with the authority of this House on what this House says and on what this House passes.

What I propose, in a spirit of compromise, is this: I believe that category 3 is the wrong category. I believe that category 2 may, following the debate, be not quite expansive enough. The member for MacKillop is, I think, getting to the same point because he is saying, 'All right, let us perhaps not have a general notification but at least let everyone know within 200 metres of the proposed premises.' I have no objection to that and, unless any member said no, I undertake to this committee that I would, between this chamber and the next, go to the upper house—and I think that the member for Elizabeth would do the same—and say, 'We want an amendment inserted that, while keeping it a category 2, widens that category for the purposes indicated by the member for MacKillop.'

The CHAIRMAN: Order! The member for MacKillop has advised the chair that he has a further amendment to the amendment of the minister. Would the honourable member like to foreshadow his amendment?

Mr WILLIAMS: I will foreshadow my amendment and I will be as brief as possible. The minister's original amendment would have this development application categorised under category 2. The Development Act states:

> Notice of the application must be given in accordance with the regulation to:
> (a) an owner or occupier of each piece of adjacent land; and
> (b) any other person of a prescribed class.

I foreshadow that I will move a paragraph (b) to clause 10 by adding new paragraph b(a) that notification should be given to the owner of any land which has a boundary within the distance of 200 metres of any point on the land on which a brothel is proposed.

The CHAIRMAN: Order! The advice that the chair has received would suggest that the member for MacKillop should approach Parliamentary Counsel, as the amendment as drafted would not be in order.

Mr HANNA: I will speak briefly to this clause. I am looking at the clause from a very confined point of view, that is, with respect to planning procedure. I prefer the minister's amendment to clause 10, because I believe that the Development Assessment Commission is the appropriate planning authority to make decisions across the state with respect to this type of development. There are other special cases where the Development Assessment Commission or some other specialised planning process has been put in place by this parliament, for example, developments involving state government land or council land, and the specialised regimes for licensed premises or pharmacies, for that matter. There are special qualities to brothels which warrant a similar consideration; therefore, the Development Assessment Commission is the appropriate body.

In some respects I have a devolutionist with respect to local government powers. However, there are many areas where local government is not ready for devolution of powers, and particularly so where there is a planning policy requirement for there to be some uniformity across the state. I would not want to see some councils amenable to brothels and some absolutely barring them so that we get a development of red light areas in certain districts. I do not think that is appropriate, and it requires a central planning authority such as the DAC to prevent that taking place.

I am also very sceptical of the figures related by one or two members of parliament in relation to local government's willingness to take on this series of decisions in relation to brothels as they come up within each council area. If you talk to members of local government privately, many of them will say that, although they want more power for local government, when you talk about the decision of whether or not to put a brothel in their ward of their council, they will say, 'No, I would rather not have to deal with that and the controversy.' I have heard that from members of local government.

I have briefly covered a variety of reasons which suggest that the DAC would be the more appropriate planning authority. I am not suggesting that there would be more corruption were local councils to be the arbiters of decisions in relation to brothels. It is for the reasons I have expressed that I suggest the DAC would be the appropriate mechanism. Hence, I will be voting for the minister's amendment and not for the member for Stuart's amendment.

In relation to notification, where there is notification to the neighbours of premises that are the subject of a proposal for a brothel, word will spread like wildfire if it is the kind of contentious situation which has been described by the member for Peake, where a number of residents might be affected. I had the recent example in my area of Woodend Tavern. It took only one neighbour to be notified and, in a matter of days, there was a public meeting with 200 people attending it. I do not think that each brothel application needs an advertisement in the paper. I do not think the *Advertiser* needs that additional revenue. Notification just to neighbours is more than adequate.

Mr De LAINE: Clause 10(d)(2) provides that the Development Assessment Commission is not to approve the development if the premises is situated within 200 metres of a school, church, community centre, and so on. What would happen if a brothel was established in conformity with that provision, and then at some later date a small school, church or community centre was set up within 200 metres of the brothel? If that was set up with the permission of the local planning authority, what sort of security would the brothel have in that regard? Would it have to shift or would it be able to stay there?

The Hon. M.K. BRINDAL: I would like to thank sincerely the member for Price for his contribution to this debate thus far. He might not have said much, but he has contributed, and I thank him. I know he is a person whose opinion and vote I value very highly, and I took note of what he said tonight, and I thank him. It would be an existing use. It is a matter of letting the buyer beware. If the brothel exists and a school wants to establish in the area, the brothel is an existing use, and it will not have to shift. However, people's interpretation of the law moves on. It would be interesting to see what then happens.

In my own electorate, there was a sex shop on Goodwood Road. It would quite lawfully be located where it was, fairly near a school. The school community did not like that, and the sex shop closed down. At first, the sex shop was not willing to close down, but the community exerted a sort of authority, including a few broken windows—of which I do not approve—but one way or another community opinion in that instance prevailed. That is the sort of situation that would prevail.

Mr Koutsantonis's amendment to the Hon. Mr Gunn's amendment carried.

The committee divided on the Hon. Mr Gunn's amendment, as amended:

AYES (18)

Atkinson, M. J.	Bedford, F. E.

AYES (cont.)

Brown, D. C.	Condous, S. G.
Geraghty, R. K.	Gunn, G. M. (teller)
Kotz, D. C.	Koutsantonis, T.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Oswald, J. K. G.
Scalzi, G.	Snelling, J. J.
Venning, I. H.	Williams, M. R.

NOES (27)

Armitage, M. H.	Brindal, M. K. (teller)
Brokenshire, R. L.	Buckby, M. R.
Ciccarello, V.	Clarke, R. D.
Conlon, P. F.	De Laine, M. R.
Evans, I. F.	Foley, K. O.
Hall, J. L.	Hamilton-Smith, M. L.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Ingerson, G. A.
Kerin, R. G.	Key, S. W.
Olsen, J. W.	Penfold, E. M.
Rankine, J. M.	Rann, M. D.
Stevens, L.	Such, R. B.
Thompson, M. G.	White, P. L.
Wright, M. J.	

PAIR(S)

Majority of 9 for the noes.

Amendment thus negatived.

Mr HANNA: On a point of order, sir, was there an amendment to the amendment moved by the minister?

The CHAIRMAN: We will now deal with that matter. Order! I ask members to take their seats or leave the chamber.

Mr WILLIAMS: I move to amend the minister's amendment, as follows:

At the end of paragraph (b) add about the following words:

(b)(a) and category 2 is to be taken to require notice of the application for consent to be given to an owner or occupier of land within 200 metres of the land the subject of the application (in addition to the persons to whom notice is required to be given under the Development Act 1993).

As disappointed as I am with the vote that we have just had, it is imperative, in the case of an application to have a brothel in an area where, despite what some would have us believe, residents are located next door to the local deli, to which we send our children to pick up the milk and so on, that people within the locality are notified of an application to site a brothel in the area and are given the opportunity to appeal, albeit to the Development Assessment Commission. I commend the amendment to the committee.

The Hon. M.K. BRINDAL: The member for MacKillop realises that it is most unusual to have an amendment that is not drafted by Parliamentary Counsel. I have consulted those people in the chamber who seem to be similarly minded to me and, as I said previously to the honourable member, I would have given our word that we would try to adopt this style of an amendment as it went into the other place. I am happy to accept the member's amendment.

Mr McEWEN: Here we go again. This is the danger of legislation on the run.

Members interjecting:

Mr McEWEN: I am sure that other members can have the opportunity to speak when they get the call. In speaking to the member for Peake's amendment to the member for Stuart's amendment, I made the point that what we are now trying to do is do something within a constitution bill that ought to be done within the Development Act. All developments ought to be dealt with in the Development Act and we ought to be appropriately linking a mechanism to the Development Act when part of that process involves a development.

I made the point also that the clause that referred to division 3 was actually irrelevant because, as the Development Act provides:

Any development that is not assigned to a category under paragraph (a) will be taken to be a category 3 development for the purpose of this section.

In other words, specifying that this category 3 was irrelevant. If we go back to the Development Act, the appropriate planning authority has the opportunity within its supplementary development plans to specify whether this is a category 1, 2 or 3. That is the opportunity that they ought to have and do have under the Development Act. Fancy us now in a different act going away from that and actually saying that it is going to be a hybrid category 2.

We are saying, 'You're going to deal with this as a category 2 within these following limitations.' It is a very silly way to be going. Quite frankly, we have all the tools we need within the democratic process to deal with all these matters under the Development Act, which is why local government actually supported Michael Atkinson's amendments in the first place. It was a sensible way to go.

Given that the member for Stuart's amendments achieved the same thing in an inappropriate bill, we supported it. Now we are putting another measure into an inappropriate bill, which again limits what local government can do under the Development Act, and I think it is a silly way to go.

The Hon. M.K. BRINDAL: The honourable member made a point that I think is wrong. This is linked to the Development Act: this act clearly says so.

Mr Williams' amendment to the amendment carried.

The committee divided on the Hon. M.K. Brindal's amendment, as amended:

AYES (31)

Armitage, M. H.	Bedford, F. E.
Brindal, M. K. (teller)	Brokenshire, R. L.
Buckby, M. R.	Ciccarello, V.
Clarke, R. D.	Conlon, P. F.
De Laine, M. R.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Hall, J. L.	Hamilton-Smith, M. L.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Ingerson, G. A.
Kerin, R. G.	Key, S. W.
Matthew, W. A.	Olsen, J. W.
Oswald, J. K. G.	Penfold, E. M.
Rankine, J. M.	Rann, M. D.
Stevens, L.	Such, R. B.
Thompson, M. G.	White, P. L.
Wright, M. J.	

NOES (14)

Atkinson, M. J.	Brown, D. C.
Condous, S. G.	Gunn, G. M.
Kotz, D. C.	Koutsantonis, T.
Lewis, I. P. (teller)	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Scalzi, G.	Snelling, J. J.
Venning, I. H.	Williams, M. R.

Majority of 17 for the ayes.

Amendment, as amended, thus carried; new clause inserted.

Clause 11.

The Hon. M.K. BRINDAL: I move:

Page 6, line 27 to page 7, line 4—Leave out this clause and insert:

Restraining order against operator of sex business for nuisance

11.(1) On a complaint under this section, the Magistrates Court may make a restraining order against the operator of a sex business if satisfied that an occupier of premises adjoining orin the vicinity of the brothel or other place at which the sex business is carried on has suffered nuisance by reason of the presence or operation of the sex business.

(2) A restraining order may impose restraints on, or require action to be taken by, the operator of the sex business necessary or desirable to prevent or minimise the nuisance.

(3) A restraining order may be made under this section whether or not it appears to the Magistrates Court that any conduct constituting the nuisance is likely to recur or continue.

(4) A complaint may be made—

(a) by a police officer; or

(b) by an occupier of premises adjoining or in the vicinity of the brothel or other place at which the sex business the subject of the complaint is carried on.

(5) The Magistrates Court may vary or revoke a restraining order on application—

(a) by a police officer; or

(b) by an occupier for whose benefit the order is expressed to be made; or

(c) by the operator of the sex business.

(6) An application for variation or revocation of a restraining order may only be made by the operator of the sex business with the leave of the Magistrates Court and leave is only to be granted if the Court is satisfied there has been a substantial change in the relevant circumstances since the order was made or last varied.

(7) The Magistrates Court must, before varying or revoking a restraining order allow all parties a reasonable opportunity to be heard on the matter.

(8) Where a restraining order is made, the Principal Registrar of the Magistrates Court must forward a copy of the order to the Commissioner of Police and, if the complainant is not a police officer, the complainant.

(9) Where a restraining order is varied or revoked, the Principal Registrar of the Magistrates Court must notify the Commissioner of Police and, if the complainant is not a member of the police force, the complainant, of the variation or revocation.

(10) In proceedings under this Division other than for an offence, the Magistrates Court is to decide questions of fact on the balance of probabilities.

(11) A person who contravenes or fails to comply with a restraining order is guilty of an offence.

Maximum penalty: Imprisonment for 2 years.

(12) This section does not derogate from any civil remedy that may be available apart from this section.

Mr CLARKE: I congratulate the minister for the improvement in this clause. One of my concerns related to the fact that, once a brothel is established, there be an effective and inexpensive remedy to enable neighbours to address the problems caused by the persons operating the brothel or, in many instances, not so much those people or the people who work inside the brothel but clients.

There have been instances in my electorate where, because of the comings and goings of cars and the related noise with people banging on the doors of the wrong address and so forth and creating considerable inconvenience, it was necessary to provide an effective means by which neighbours could remedy these problems. Subclause (4) allows a police officer or an occupier of premises adjoining or in the vicinity of the brothel to make a complaint.

The reason for including a police officer, which I am pleased to see the minister has done, is to provide for someone who is concerned about the activities taking place in a brothel but who feels frightened or there is the potential for them to be intimidated if it becomes known that they laid the complaint in the Magistrates Court. Under this clause, a police officer will, independently, be able to lay the complaint.

Does the minister have any idea of the time lag that might elapse between the lodgement of such a complaint and having the matter brought on for hearing? We do not want these sorts of matters dragging on for months. They should be able to be readily settled in a few weeks at the outside.

The Hon. M.K. BRINDAL: I thank the honourable member for his comments. I could make a cheap joke, but I will not. This matter will be dealt with in the Magistrates Court. Because of the nature of the order, which is in fact a restraining order, it will be dealt with fairly expeditiously within days rather than weeks or months.

Mr ATKINSON: The origin of this clause is in minority report A of the report of the Social Development Committee authored by the member for Hartley and I. I thank the minister for adopting our clause. The reason the member for Hartley and I developed this clause was because we had had trouble with brothels in our respective electorates where people had complained about the nuisance created by a nearby brothel, and the only way to remedy the problem was to contact the police. That remedy will no longer be available.

However, when I canvassed with my constituents bringing an action for public nuisance, it became apparent that the only way to do this was to issue proceedings in the Supreme Court, which would cost at least $3 000 and take a very long time. So, the member for Hartley and I developed this idea of approaching the Magistrates Court for a remedy, because that would be much quicker and cheaper. I am pleased to see that the provision has been reproduced in this bill, and I thank the minister for adopting it.

Mr McEWEN: I compliment the minister on this amendment. However, I put on the record that it goes nowhere near far enough because there is another nuisance that has not been addressed. It is the nuisance that is created when there is a change in the use of the premises. I speak from first-hand experience. I once rented for private domestic purposes a small flat in Gover Street, North Adelaide. The landlord never told me that, up to the point when I leased that dwelling for private purposes, it had been used as a massage parlour.

The nuisance that my wife and I suffered for the next 18 months was considerable, and there was nowhere to seek redress. Clients who knew of that particular address continued to visit at all hours of the night months and months after the massage parlour was closed down.

Ms White interjecting:

Mr McEWEN: I am not suggesting for one minute that you can fix it. That is why earlier tonight I voted for a very different course of action. That notwithstanding, I am acknowledging that a whole new area of nuisance will be created which none of you shrewd legislators has addressed.

The Hon. M.K. BRINDAL: I trust that the honourable member looked at the colour of the light globe outside and replaced the red one!

Amendment carried; new clause inserted.

New clause 11A.

The Hon. M.K. BRINDAL: I move:

Page 8, after line 2—Insert new clause in Part 3 as follows:

Limitation on sex business

11A. (1) The operator of a sex business must not have more than one place of business.

Maximum penalty: $20 000.

(2) A person has a place of business if a sex business that the person carries on, or in which the person is involved, is carried on at or from that place.

Mr CLARKE: I want to make sure that I have this correct, so I ask the minister to confirm it for me. When I originally read new clause 11A(1), I started to think, okay, an operator might be able to have a relative or a front person to operate or open up another sex business, but to all intents and purposes the person who already had a brothel would be in receipt of the additional profits or revenue from second or subsequent brothels that they might operate through a front person. However, clause 3(2) provides:

For the purposes of this act, a person is involved in a sex business if the person is. . .

(b) a person who has a right to participate in, or a reasonable expectation of participating in, income or profits derived from the conduct of the business; or

(c) a person who is in position to influence or control the conduct of the business.

If such a front arrangement was set up, if the person who organised that front arrangement was in receipt of any profits, they would be caught by that definition and therefore would still be caught by not being able to have more than one business. I want to ensure that my reading of the bill is correct.

The Hon. M.K. BRINDAL: That is correct. This clause provides that one person can operate only one business. If it can be proved either in the manner suggested by the member for Ross Smith or simply proved that the person operating the business is a front for another person who already owns a sex business, the offence is committed, anyway. It is a pincer movement. They could be caught in two ways. If people seek to conceal something, it becomes very difficult sometimes to get the best law to stop people with a mind towards deceit from being deceitful.

New clause inserted.

Clause 12 passed.

Clause 13.

Mr ATKINSON: I move:

Page 8, lines 10 to 32—Leave out this clause and insert:

Advertising prostitution

13. (1) A person must not advertise prostitution.

Maximum penalty: $5 000.

(2) For the purpose of this section, a reference to advertising prostitution includes a reference to publishing an advertisement that states, or is reasonably capable of implying, any of the following matters:

(a) that person is available for or seeking to engage in prostitution;

(b) that a person who is available for or seeking to engage in prostitution may be contacted—

(i) at or though a place; or

(ii) through a person; or

(iii) by any other means;

(c) that prostitution is available—

(i) at or through a place; or

(ii) through a person; or

(iii) by any other means;

(d) that a person is seeking to be employed or otherwise engaged for the purposes of prostitution.

I think the vast majority of members will agree that it is undesirable to promote the provision of commercial sexual services by advertising. Another reason for moving it is that I think there is an error in the government's bill. Clause 13, at line 20 reads as follows:

A permitted advertisement is—an advertisement. . . stating the registration number of the relevant sex business.

Of course, we are not now registering sex businesses under the regulation bill, which means that that line should not have been there, anyway. I think the case for my amendment is self-evident. I hope the committee will accept it.

The CHAIRMAN: Is it the minister's intention to move his amendment as well?

The Hon. M.K. BRINDAL: No, sir; I believe that the committee is minded to accept the arguments of the member for Spence. That being the case, if his amendment passes, the inadvertent error that needed to be corrected by my amendment is rendered superfluous and we will not need to proceed with my amendment.

Mr LEWIS: I am probably dumber than most people in here. I would like to know from the member for Spence: does this mean that using a web site is banned? That is not an advertisement for which there is a specific additional fee other than the hire fee on the use of the web site. Secondly, does it ban direct mail advertising? I want to support this measure, but I do not think it goes far enough. I want to support the complete banning so that you cannot advertise it on the net and you cannot advertise it by direct mail.

Let me explain what I think the direct mail problem is. It arises out of its still being lawful to advertise phone sex and that kind of service, which is presently being advertised illegally in many instances, because there is a specific provision in other legislation that states what the maximum size of the advertisement can be; otherwise it is breaking the law. It also states what the maximum size of the type may be; otherwise it is breaking the law. They can still do that, and that is neither here nor there. We will not argue that point.

If they put in advertisements that attract the attention of people who seek sexual favours of one kind or another, and indeed get a response through those advertisements from such people, then they can write them a letter or send them a fax and invite them to attend one or other of the brothels from which they are getting some sort of commission. I know you are not allowed to own more than one brothel, but it does not say that you cannot get a consultant's fee as an expert in marketing for arranging the sale of the services. It is like Jim's Mowing service: 'You join the franchise and we will send you clients.' I do not know we are going far enough. It is probably a measure with which we will have to deal in the next session of parliament. It did not occur to me. I was always optimistic that enough of us would have enough sense or enough stupidity to vote the way I was voting, but that is not the case.

So, we have a market and now in some measure we are trying to make that market less prurient and let the service that is provided be inoffensive and unobtrusive. There is no question that that is what the committee wants, yet I am not sure that we will achieve it. Can the member for Spence tell me whether or not my fears are well founded?

Mr ATKINSON: I do not think there is much we can do about advertising on the internet if the advertisement is placed from outside the jurisdiction. I would not be optimistic about that. I think the member for Hammond is right when he says that some people will act as brothel brokers, if you like; and they will be approached by—

An honourable member interjecting:

Mr ATKINSON: I was going to come to taxi drivers because, as you know, many taxi drivers are members of my ALP sub-branch, and there are many in my constituency. I probably have in my electorate the highest concentration of cab drivers anywhere in the state, and I regard this as a way

for them to earn a bit of income on the side and make themselves useful. I think it is human nature—

An honourable member interjecting:

Mr ATKINSON: There will be some cab drivers who are aware of where the brothels are. I think the member for Kaurna is being a bit precious about this. The member for Colton is right: many cab drivers in Adelaide currently know where the brothels are.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: The member for Unley says all cab drivers are brothel brokers; I do not know whether that is right. My understanding is that, if this clause is passed, the way people will find out where brothels are is by word of mouth—by talking to people who know where the brothels are and what services they offer. Obviously, the internet will be one way around it. What I am trying to do here is prevent as much advertising as I can by this clause. I do not think we can go much further than this clause goes. Later I will introduce a new clause 14A which provides that it is a defence to the ban on advertising that the advertisement was not circulated intentionally. So, it may be that advertisements for brothels in South Australia are placed in interstate newspapers and then those interstate newspapers come to be circulated in South Australia but, if the publisher of the newspaper can show that he did not intend to circulate the newspaper in South Australia, he would have a defence. He would have to be able to show that.

Certainly, people will find a way around this provision, but I think it is very important that the parliament say that it is not socially desirable for commercial sexual services, whether they be escort agencies or brothels, to be advertised. It is only fair that the public not have the commercial sex industry intrude upon them in their newspapers, on their radio or television or the *Yellow Pages*.

Mr HILL: I strongly support the amendment moved by the member for Spence in relation to the advertising of prostitution and brothels. I personally and I know many people not only in my electorate and in the general community find repugnant the advertisements currently placed in the newspapers, *Yellow Pages* and elsewhere in our community. The salacious nature of those advertisements is offensive to many people. Whether or not prostitution is legal or illegal, I think that is the case, and I am very strongly opposed to those advertisements being continued. I think it is an extremely sensible amendment that the member for Spence has moved to ban those advertisements. I do not agree with those members who say that, if the service is legal, advertising of it should be legal too. The obvious example that one can give to oppose that position is the case of cigarette advertising. We allow tobacco to be smoked in our community, but we do not allow the advertising of it.

There are a range of reasons for opposing the advertising of prostitution. The fact that it is legal does not necessarily mean that it should be allowed to be promoted in a commercial way in our community. Given the imagery that is contained in the advertising currently available (and God knows what sort of imagery would be available if prostitution were made legal), the message it would send to young people would be very damaging. If people want to find prostitutes, let them begin the search.

Mr Condous interjecting:

Mr HILL: I agree with the honourable member; I think the *Yellow Pages* should not contain the advertisements they currently contain. Even now, when prostitution is illegal, people are able to advertise their services in a whole range of ways. It is pretty clear what the services are that are being advertised. This will go further than what we already have; this is an improvement on the status quo because, if this amendment gets up, it will make it illegal to advertise prostitution or massage parlour services. That will improve the moral environment considerably, so I commend my colleague the member for Spence for moving it. I think it sends a very bad message to young people to see those kinds of advertisements. Young people whose minds, opinions and understanding are not fully developed see this kind of material in the newspapers and probably think it is quite a reasonable alternative for entertainment and for having pleasurable experiences.

For that reason we should ban it but also, if prostitution is made legal, it is quite sensible to allow it to be done in a constrained and restrained way. For example, in our community at the moment it is possible to go out into the streets and get heroin. Heroin does not need to be advertised to make it obtainable, yet we know that plenty of people are able to get heroin on the streets. We should not allow the advertising of heroin, for example, if it were to be made legal at some stage in the future. It would be repugnant to us to do that, and the same situation applies in relation to prostitution. If it is made legal, let it be made legal and let those people who want to use those services find ways of getting hold of those services. I am sure that 50, 60, 100 or 200 years ago when prostitution was available in our community there was no advertising in the newspapers or the *Yellow Pages*, and those persons who wanted to find prostitutes had no difficulty finding them.

Mr Atkinson interjecting:

Mr HILL: They showed some initiative, as the member for Spence says. Taxi drivers might know where to find prostitutes, and I imagine that people who work and drink in hotels and a range of other people might be able to help persons who are desperate enough to want to find a prostitute, but I do not think we should assist the community by allowing advertising. It is one thing to legalise prostitution; it is another thing completely to legalise the advertising of it. So, I strongly support the amendment moved by the member for Spence.

Mr SCALZI: I too strongly support the amendment moved by the member for Spence. As he pointed out, these are some of the matters we agreed upon in the Social Development Committee report, and it makes a lot of sense. The member for Kaurna put it succinctly when he talked about cigarettes being legal, yet we do not advertise cigarettes. Personally I also find all the advertisements in the newspapers, the local Messenger press, and so on, repugnant. I know that banning advertising will not be too popular with the newspapers.

However, we must send a message that whether or not some things are cool they should not be advertised to the point where the whole community is continuously made aware of them. We do not have to watch commercial television. However, when we read a newspaper we do not have a choice: we are made aware of these services, which a great percentage of the community do not want legalised. They do not wish to know about it, yet it is continuously advertised so that they have no choice. I am sure that if someone seeks the services of a prostitute, and it is legal to do so, they will be able to find one. I therefore strongly support this amendment.

Mr CLARKE: I do not support the amendment. I know that it will be carried, and I will not be calling a division on it. However, I want to ask the member for Spence a couple

of questions. What power does the state have with respect to banning advertisements shown on the electronic media since the state has no constitutional power with respect to the electronic media (that is, as I understand it, a commonwealth power)? The last time I heard of anyone trying to ban something on the internet, whether it be advertisements, news or information, it was the communist Chinese. They have had a good look at it and they cannot work out how to do it.

Likewise, Vietnam, which I recently visited, does not allow advertisements or anything of this nature but, nonetheless, on television and by a range of other electronic means, those advertisements apparently appear. They are just specific questions. In the print media, yes, you have constitutional power. I wonder how you get constitutional power with respect to the electronic media.

My other point relates to the analogy of the bans on tobacco advertising, which is jointly done at a federal and state level in terms of banning—

Mr Atkinson interjecting:

Mr CLARKE: Federal power, also. We had to get Richardson's permission, or permission from the health minister, or whoever it was, when we had the Grand Prix to allow the transmission of Marlborough advertisements, and the like. Kennett had to do it and Bracks still has to get federal government permission with respect to formula one. In any event, with respect to tobacco and heroin, of course, we do not allow them to be advertised—and for a good reason: they kill you. I am not actually aware that sex kills you. It may cause the hair to fall out but I am not aware that it necessarily kills you, although, from time to time, it might be a strain on your heart.

An honourable member interjecting:

Mr CLARKE: Well, I am still standing here! I agree with those members who do not want dreadful advertisements, particularly those that could unnecessarily influence our young people. The original bill does seek to proscribe quite considerably advertisements in terms of their size, and does not allow photographic or pictorial material; any reference to race, colour or ethnic origin of any prostitute; or any reference to health or medical testing. There can be no reference to massage, relaxation, therapeutic health or related or similar circumstances. Various other restrictions can be imposed by way of regulations.

I would have thought that the original bill already took into account very seriously advertisements for all the good reasons that have already been advanced, because it is recognised that, if it is legalised, an industry is entitled to advertise, but we limit the manner in which it can do so. I do not think it is particularly desirable that the only way a person who wants to engage a prostitute or go to a brothel is to be told by a taxi driver that the brothel is at number 10A in such and such a street, such and such a suburb. The cabbie drops the person off at that address but it closed two weeks ago or three months ago, as a result of which the person is knocking on the wrong door. Or, you are told a street by your mate at the local football club but you are confused over the numbers. You start knocking on a few doors and asking innocent bystanders, perfectly innocent people, 'Do you run a brothel at this location?' I do not think that is a particularly desirable outcome, either.

Quite frankly, this parliament cannot have it both ways. You either legitimise a business or not, and I understand that a significant number of MPs do not agree with it. That is fine, but if they are in the minority, and this parliament, by a majority decision, decides that a business is legitimate and not dangerous to one's health—although one might not necessarily say that one would encourage the business—then, within certain restrictions as laid down in the original bill, one ought to be able to advertise, if necessary in the *Yellow Pages*.

I think that it is quite unedifying for a customer or a potential customer of a legitimate business to go furtively around to find out which cab drivers have the knowledge, and who probably—as happens in a number of other countries, and it is probably happening here already—are on a commission from a particular brothel if they funnel through so much business. It is also unedifying, totally undignified, for someone who wants to use the services of what we in this parliament decide will be a legitimate business to go in whispers around the local football club, or whatever, to find out where the brothel is established.

As far as I am concerned, if you do not want to advertise it—everything is so bad and horrible—let us not vote for the bill. Do not legitimise the keeping of brothels. I can understand that. It is a perfectly rational point of view and it is perfectly rational to vote that way but, if parliament decides by majority to legitimise brothels, in reality you must allow them to be able to advertise within certain constraints. I believe that this original bill has a number of significant constraints.

The other point is that it will not work, anyway, because the business will find creative ways of advertising their services. New code words will be established. Escort agencies or massage parlours will find another way of advertising their services and, because they will not fall under the description of the member for Spence's advertising, they will probably be more salacious and counter-productive than if we had agreed with the bill as it was originally put.

I conclude on that note and I particularly look forward to the learned shadow attorney-general's view as to the constitutional power of this state parliament to ban electronic advertisements.

Mr FOLEY: I want to speak very briefly. From the outset, the important issue for me is that this bill passes this House tonight. I will support this amendment. However, it is a silly amendment, and it is an amendment—

Members interjecting:

Mr FOLEY: I am prepared to confess that I am supporting a silly amendment in the interests of getting the bill through tonight. The member for Ross Smith was absolutely correct. Here we are tonight legitimising an industry, but we are saying that it cannot advertise. It is a case of one step forward, two steps backward.

Mr Atkinson: How do you vote on smoking, Kevin?

Mr FOLEY: We ban advertising on smoking. In fact, we ban advertising for a number of things that are legal. However, if you want to ban advertising on an activity, you have to assess objectively each individual activity. By way of example, you can advertise skydiving in the *Yellow Pages*. That is pretty dangerous; people die skydiving. However, you can look up the *Yellow Pages* and find a place where you can skydive. You could even look up another journal and find a skydiver. At the end of the day, people will make decisions as to what is in their interests. This is a silly amendment, and I am probably even sillier for supporting it. However, as I said, I am doing so in the interests of the bill. I have heard some debate about the cab driver network. One of the reasons we want to legitimise this industry is to try to deal with the issues of corruption, crime and criminal activity. If we do not provide a vehicle by which the industry can advertise its

lawful and legitimate industry, what will we encourage? We will encourage corruption and criminal activity.

If a taxi driver does his or her job properly and has a register of brothels in his or her glove box, that would give rise to the potential for commissions. Once commissions become involved, a cab driver will have his or her list of clients, and another cab driver will have a list of his or her clients.

An honourable member interjecting:

Mr FOLEY: Exactly! I do like cab drivers. I do not want to put cab drivers under any more pressure than they are already under. I believe a cab driver's job is to take a passenger from point A to point B. Let us not be silly about this.

Mr Atkinson: You want the advertising agencies to get their cut?

Mr FOLEY: No, not at all. I am supporting reform in this area for one very important reason. I want to see criminal activity taken out of it where possible, and where possible—

An honourable member interjecting:

Mr FOLEY: No, organised crime taken out of it. Equally, we have far more important matters to deal with on our agenda, and I want to move onto them.

Mr Atkinson: Sit down then!

Mr FOLEY: Thank you. This is my first chance to speak. Give me a break.

Members interjecting:

The ACTING CHAIRMAN (Hon. G.M. Gunn): Order!

Mr FOLEY: I just think that this is a silly amendment.

An honourable member interjecting:

Mr FOLEY: It is, and I am even sillier for supporting it. However, there is a bigger agenda here. Let us be serious about this. At the end of the day, if we are trying to give some legitimacy to an industry—

An honourable member interjecting:

Mr FOLEY: Some aren't; some are. I am one who is. There needs to be some ability for them to advertise their services as an industry, otherwise the industry will find ways to seek clientele that are not to our liking, and we will be back in here in a year's time passing regulations or laws to deal with touting on the streets or whatever other way the industry is forced to get clientele. That will create a much greater problem. Having said that, I think there are legitimate reasons to curtail advertising. The *Advertiser* and other journals are making great profits out of quite silly, offensive and foolish advertising which does have the potential for young South Australians to see it and take advantage of it. I am quite happy to take that sort of advertising out of the paper and to outlaw it. We should get rid of it. It is stupid. That is the sort of advertising I am happy to see go. At the end of the day, proper advertising in a discreet manner in the *Yellow Pages* or whatever other journal is to me—

Members interjecting:

Mr FOLEY: I say to the member for Spence that I do not think *Yellow Pages* is a journal that children—or anyone, for that matter—would grab and read each morning. I agree with the original bill. We should take out photographs, pictures and all that other stuff. We should have bland, straightforward, plain, non-inviting advertising. For God's sake! Giving them the opportunity to advertise their business is not an onerous task to do.

Mr Atkinson: How would such an advertisement be phrased?

Mr FOLEY: I don't particularly care, but have it phrased without a photo, for instance. At the end of the day, we are being awfully churlish if we say that they cannot advertise their business. Having said that, I indicate that I support the amendment. I am as silly as everyone else for supporting it. I am prepared to admit that and do so for the greater good of getting this bill through.

Mr HANNA: This is not a silly amendment; it is an excellent amendment. I echo the eloquent description of it by the member for Kaurna. When it became apparent that this chamber was minded to go with the regulation bill—which, in fact, is a deregulation model—I was determined to have three outcomes from this process: first, to heavily restrict prostitution in residential areas; secondly, to heavily restrict advertising of prostitution; and, thirdly, to ensure a government commitment of funding to give a specialised service to those who wish to give up prostitution, while recognising the choice of those who wish to remain in the industry. That is the direction in which we are moving. Therefore, I am pleased to support the amendment, and I am absolutely confident that those who insist on going to use prostitutes will find them and that the legal industry being created by this bill will be able to flourish, despite the ban on advertising.

Mr ATKINSON: The people who oppose this amendment in the commercial sex trade oppose it because its cramps their style. The people in the commercial sex trade want to use the regulation bill as a way to boost their revenue, to market their service, to make a visit to a brothel a normal event for blokes after a night out on the town, a normal event for the footy club. What they want to do is market their service to have more prostitutes, clients, brothels and escort agencies, and they will work in tandem with the pornography industry to try to achieve that. This is one small attempt to try to stop them marketing their service, in the way they want. Most of us do not want to see this trade grow and prosper. It will to some degree under the regulation bill, but we can try to put the brakes on.

The member for Ross Smith says that this amendment is somehow unedifying to require a client to have to ask someone where to go to find a commercial sexual service. What I find unedifying is that in South Australia today every resident has to have a catalogue of escort agency services thrown over the front fence or put on the front porch. That is unedifying. It is unedifying that in our morning paper we have advertisements for prostitution. It is unedifying that on television after midnight we have advertisements for prostitution—disguised, of course. It is also unedifying that even on some of our radio stations after midnight we have had disguised advertisements for prostitution. That is what is unedifying. I have some bad news for the commercial sex industry. It may have got this regulation bill up but, as part of it, it will get a ban on advertising, and that is a big improvement for this state. For those of us who are disappointed about the regulation bill passing, this is important compensation for us, and we are pretty keen to see it go through.

The member for Ross Smith seems to think that, because brothels will not be able to be advertised, men will go knocking on the wrong door. I have news for the member for Ross Smith—that happens now. I have never seen a prostitution advertisement that contains an address. If the member for Ross Smith can find one for me, I would like to see it. Normally it contains the name of a girl, a suburb and a telephone number. So, nothing will change.

Moving on to the constitutional point, I am confident that if this matter were litigated in the superior courts it would be found that it is reasonable regulation for a state to prohibit or

regulate advertising by electronic media. That would be reasonable regulation but, if I am wrong and someone challenges this in the superior courts to say that only the commonwealth can prohibit the advertising of prostitution on radio and television, and they were successful, I am cheerful enough about the provision's being read down to the state parliament's constitutional capacity. This law is not constitutionally invalid ab initio. It is valid now until someone challenges it and, if someone challenges it, it will be read down to the constitutional competence of the state parliament. I am sure we are all quite phlegmatic about that, I can tell the member for Ross Smith. I am glad the committee will support this. It is a good amendment. If there is a constitutional difficulty with it, it will be resolved.

Mr CLARKE: I will not belabour the point, but the member for Spence does not satisfy me with his answers as to the constitutional validity of a state banning electronic media. If he gets away with that, in some respects I would almost welcome it because it would give state parliament and a state Labor government significant powers with respect to political broadcasts and the like, and the requirement perhaps of television stations to have to provide free air time with respect to political broadcasts, and so on, which was stuck down by the High Court with respect to federal power only in so far as it was seen as the right to free speech. It is also an interesting exercise in itself on free speech with respect to legalised brothels not being able to communicate via an electronic medium.

In any event, the member for Spence says he is sanguine about it and will wait for someone to initiate a High Court challenge. He and I have had a few different views on legal outcomes, and we will have to wait to see whether the record remains with respect to who is right or wrong. For all the reasons that I have stated, advertisements will still take place. You can still get direct mail. I do not know what happens in regional centres. If you have a television station in the western districts of Victoria, it can broadcast advertisements over into the South-East of South Australia. In Port Augusta and various areas of the Northern Territory, Imparja could decide to broadcast advertisements for brothel services and the like. The same applies if they are advertised on the SBS or the ABC, and it is broadcast interstate and relayed through here.

Irrespective of the fact that I do not think the member for Spence is right in the first place in his interpretation of the Constitution, there are so many loopholes that his amendment will be made a mockery. We will be made to look very silly indeed, whereas we could have taken more rational action in terms of the present bill so that the type of advertisements are done far more tastefully and are not salacious—not there to entice young people or to pervert them. That is what I want, but the member for Spence, to satisfy his quest for some sort of victory in this matter, stands there like the 300 at Thermopylae as the last one gets hacked down, so that he can say that there is some reason for our having stood there on the burning bridge. This is your rationale, your raison d'etre. The trouble is that it will not work and you will probably end up putting the public of South Australia in a worse position, which is not your chosen view. You hold your views quite sincerely and I respect that, but we will be the worse for it.

Mr LEWIS: I am reassured by the member for Spence and need just a tad more reassuring. I get confused when I raise these ideas together, and it probably makes it more difficult for others, so I have chosen to separate the two. I have done with the other bit, and we have had some discussion about TV and radio advertisements. I take the point of the member for Spence that the superior courts may well strike down any attempt to get around the provisions of this act by doing it on the electronic media, and I guess we will just have to wait and see whether someone attempts to use TV or radio advertising.

The other thing I wanted to understand from this clause or anywhere else in the bill is whether it is unlawful to put an advertisement in the job vacancy columns asking someone to think about working for you in a brothel. If that is the case, I am reassured that we are home free.

Amendment carried; new clause inserted.

Clause 14 passed.

New clause 14A.

Mr ATKINSON: I move:

After clause 14—Insert new clause as follows:

Enforcement of offences relating to advertising

14A. (1) In a prosecution for an offence against section 13 or 14, the occupier of premises mentioned in an advertisement or a person whose telephone number appears in an advertisement will, in the absence of proof to the contrary, be taken to have published the advertisement.

(2) A police officer may require a person reasonably suspected of having published an advertisement in contravention of section 13 or 14 to disclose the name and address of any person who submitted the advertisement for publication.

(3) A person who refuses or fails to comply with a requirement under subsection (2) is guilty of an offence.

Maximum penalty: $5 000.

(4) A person must not knowingly provide a false name or address under subsection (2).

Maximum penalty: $10 000 or 2 years imprisonment.

(5) It is a defence to a charge of an offence against section 13 or 14 if the defendant proves that—

(a) the defendant did not intend to publish the advertisement in South Australia or to cause, authorise, permit or license the advertisement to be published in South Australia; or

(b) the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Unless these provisions were carried, clause 13 would be ineffective. This proposed new clause says that in a prosecution for an offence against the two advertising provisions—clause 13 regarding advertising the service and clause 14 regarding advertising employment—the occupier of premises mentioned in an advertisement or a person whose telephone number appears in the advertisement will, in the absence of proof to the contrary, be taken to have published the advertisement. That onus is very easy to discharge: all that the person has to do if they are innocent is simply lead evidence that they are not associated with the advertisement.

The Hon. G.M. Gunn interjecting:

Mr ATKINSON: In answer to the member for Stuart, it is more an evidentiary onus than a true burden of proof question. All the suspect would have to do is lead a bit of evidence that it is not them. They would not have to lead it to a certain standard of proof—all they have to do is respond.

Proposed new subclause (2) allows a police officer to require the publisher to disclose the name and address of any person who submitted the advertisement for publication. Obviously that will be necessary, or the clause will be unenforceable, and there is a penalty for refusing to comply with the aforementioned requirement and a penalty for providing a false name and address. I also add that this clause contains a defence to a charge under clauses 13 and 14, namely, that the defendant did not intend to publish the advertisement or intend to publish it in South Australia. Even

those like the member for Ross Smith who opposed clauses 13 and 14 ought to be supporting this clause because it contains a possible defence against a charge under clause 13.

New clause inserted.

Clause 15 passed.

Clause 16.

Ms STEVENS: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

The Hon. M.D. RANN: I move:

Page 9, line 15—Leave out the penalty provision and insert: Maximum penalty: $20 000 or four years imprisonment.

I believe that it is very important to send a clear message to the community that we do not want children in brothels. I am aware from various comments made by people that other acts provide the very highest and toughest penalties against child prostitution. However, this particular provision relates to children being on the premises of a brothel. It seems to me that the excuses or alibis why there should be children on the premises of a brothel are unacceptable in our community, in terms of community values.

Given that prosecutions are so rare in terms of achieving a successful prosecution for those involved in child prostitution or procuring child prostitution, this in itself is a preventive measure, by making sure of the very toughest penalties for those involved in arranging for children to be on the premises of a brothel. I think the amendment speaks for itself and I look forward to bipartisan support.

The Hon. M.K. BRINDAL: No-one in this committee, no matter which side of the debate, wants children involved in this industry. The penalty originally proposed was $10 000 or two years, which I think the committee will agree is a reasonably substantial penalty. However, the leader believes that it should be more, and I believe that we should all accept the leader's amendment.

Amendment carried.

Mr CLARKE: I have a question of the minister. Clause 16(1) provides that a person must not, without reasonable excuse, permit a child to enter or remain in a brothel. Under clause 3, 'brothel' means 'premises used on a systematic or regular basis for prostitution.' If a prostitute is working in a brothel in her own home, that is a brothel. It is not just a room set aside for the business, but the entire home. She may have a child who comes home after school.

The prostitute may have hours only between 10 o'clock and 3 o'clock, or something of that nature, when the child is at school. Does the clause prohibit a working mother from having her child at home when her premises are not being used as a brothel, in other words, outside working hours? From the definition of 'brothel' in clause 3 taken in conjunction with 16(1), it would appear that she would be in breach of the law.

The Hon. M.K. BRINDAL: The member for Ross Smith is showing a great degree of intelligence. There is a problem here, albeit not necessarily an insurmountable problem. We alluded to this somewhat earlier in that when they are interpreting the law they look at the body of the law and not our debates in parliament. But clearly one of the definitions provides that a brothel must be no more than eight rooms. That implies that a brothel is defined in terms of those rooms in which the act of prostitution takes place.

If a court were to take that construction, they could argue that, whilst a woman might be engaged in a home business, that portion of the home business which is the brothel is not the whole of the house but the bedroom or the part of the house in which the prostitution takes place, in which case it could be argued that any child is not then present in the brothel, not being present in the room where the sexual activity occurs. Similarly, it could also be the arguable opinion of the courts that a brothel is a brothel only at such time as a sexual activity is taking place.

Mr Atkinson: What is your authority for saying that?

The Hon. M.K. BRINDAL: I am not quoting an authority; it is a surmise. I am trying to answer a question from the member for Ross Smith, because the end of my answer will say that only the courts can truly determine this. That might well mean that this House will have a subsequent involvement. If the courts start to interpret this in a way that is clearly not what this House considers to be the way we intended it, we would have to come back here and change it.

By this provision I am sure that the leader is not intending to make unwitting victims of children who are caught in a web not of their own making, or to stop people who are in a cottage industry by some sort of artificial constraints. I would put the same sort of argument that the member for Ross Smith himself argued when putting his proposition about the member for Spence's advertising. if there is going to be a legitimacy in the industry, this has to be interpreted by reasonableness.

All I am trying to say to the member for Ross Smith and the member for Spence is that I do not have any legal authority for saying that. I have talked to the officers. There are a number of interpretations that the court could make but the interpretations that it will make are for the court and if they are not the interpretations that this parliament had intended, this parliament would perhaps be minded to bring back the bill and amend this clause to make sure that we do not catch those we do not intend to catch.

At the same time—and this is the point that the leader made—we have to make sure that we have a law that absolutely clearly and unequivocally says, 'We do not want children involved in this trade.' Living in a house where the mum might perform a business while the kids are at school is entirely different, in my opinion, from actually being enmeshed in the business of prostitution. That is what we try to address here. Whether or not we are successful I am not sure, but it is worth giving it a go.

Mr CLARKE: I appreciate what the minister and the leader have said, but we have just passed an amendment with a maximum penalty of $20 000 or four years imprisonment. We say that we think we know what our own legislation means, but that we will let the courts divine it, when we all know that the courts do not look at *Hansard* to determine what parliament says is the law; the courts look at the black letter of the law, as I think they should. If they tried to divine what we actually mean in parliament by reading *Hansard*, they would go around the bend and commit themselves to Glenside.

I will not take up the time of the committee now, because we have time between now and when this matter is debated in another place, but I want an assurance from the minister that this matter will be taken up with the Attorney-General. I know that this is difficult, because it is not a government bill, but I do not think that it is the intention of any member of this parliament if this bill becomes law that, outside of working hours, a working mother, whose child goes into the mother's bedroom to say hello first thing in the morning or kiss her goodnight at night, is potentially up for a fine of $20 000 or four years in gaol.

That could happen if clause 16(1) is read together with the definition of 'brothel' which is 'premises used on a systematic or regular basis for prostitution'. That definition does not refer to 'rooms'. In any event, if it did mean 'rooms', as the minister surmised, that would mean that the child might not be able to go into the mother's bedroom outside of working hours to kiss her goodnight or for whatever reason without risking a $20 000 fine or four years imprisonment for the mother. I do not think any member present wants that to be the result. We do not want to come back and say, 'Woops, we made a mistake' after some celebrated court case where some poor working mum got a $20 000 fine or two years imprisonment because her child walked in to say goodnight with a kiss. That is not what we mean.

I would like an assurance from the minister that he will raise this point with the Attorney-General so that we are clear on it and, if necessary, amendments can be formulated in the Legislative Council to ensure that that sort of unintended consequence does not arise.

The Hon. M.K. BRINDAL: I understand the points made by the member for Ross Smith. He has my assurance. I point out that the words 'without reasonable excuse' could well give the mother that protection. However, the honourable member has asked that the matter be checked with the Attorney. I agree with him, and that will be done.

Mr WILLIAMS: I move:

Page 9, lines 18 and 19—Leave out subclause (3) and insert:

(3) It is a defence to a charge of an offence against subsection (1) to prove that—

(a) the defendant or defendants required the minor to produce evidence of age; and

(b) the minor made a false statement, or produced false evidence in response to that requirement; or

(c) in consequence the person reasonably assumed that the minor was of or above the age of 18 years.

The clause that this amendment seeks to replace in the bill provides that it would be a defence if 'the defendant believed on reasonable grounds'. The wording that I seek to amend that with is taken directly from the Liquor Licensing Act with suitable changes to make it appropriate for this bill. I think it applies a big more rigour. One of the few things on which we all agree is that we want to keep minors under 18 years of age out of this industry. This amendment places a bit more of an onus on the operator of a brothel or a person attending a brothel to ensure that they make inquiries if they have any doubt about whether a person is over the age of 18 years. I hope that it will have the desired effect of saving a few more minors from this insidious practice.

The Hon. M.K. BRINDAL: I believe that the member for MacKillop has had discussions with some members of this chamber and that they are not minded to accept this amendment.

The committee divided on the amendment:

AYES (18

Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Gunn, G. M.	Hamilton-Smith, M. L.
Kotz, D. C.	Koutsantonis, T.
Lewis, I. P.	Matthew, W. A.
Meier, E. J.	Olsen, J. W.
Oswald, J. K. G.	Penfold, E. M.
Scalzi, G.	Snelling, J. J.
Venning, I. H.	Williams, M. R. (teller)

NOES (26)

Armitage, M. H.	Atkinson, M. J.
Bedford, F. E.	Brindal, M. K.

NOES (cont.)

Brokenshire, R. L.	Ciccarello, V.
Clarke, R. D.	Conlon, P. F.
De Laine, M. R.	Foley, K. O.
Geraghty, R. K.	Hall, J. L.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Ingerson, G. A.
Key, S. W.	Maywald, K. A.
McEwen, R. J.	Rankine, J. M.
Rann, M. D.	Stevens, L. (teller)
Such, R. B.	Thompson, M. G.
White, P. L.	Wright, M. J.

PAIR(S)

Majority of 8 for the noes.

Amendment thus negatived; clause passed.

Clause 17.

The Hon. M.K. BRINDAL: In the consideration of this bill as it has passed its various stages, a decision has been made to deal in the schedules with the code of conduct relating to sexually transmitted disease. Therefore, at this stage we will be proposing the deletion of clause 17 and dealing with what is now in clause 17 as a schedule later in the bill. I propose that, as we are dealing with this matter in the schedule, the member for Hammond address this matter in the schedule because the same matters are canvassed later in the bill. We are merely opposing this clause, dropping it from here and putting it elsewhere.

The CHAIRMAN: Order! What the member for Hammond is talking about has nothing to do with the schedule. The member for Hammond is talking about new clause 17E. What the member for Hammond is attempting to do has nothing to do with what we are talking about now. We are talking about clause 17, which the minister has indicated he will oppose. Then there will be new clauses to consider.

Clause negatived.

The CHAIRMAN: The member for Mitchell has indicated that he wishes to insert a new clause 17A. The chair needs to advise the member for Mitchell that, as this is a money clause, it is not appropriate for this clause to be dealt with.

Mr HANNA: I withdraw the amendment standing in my name to be inserted after clause 17.

New clause 17A.

The Hon. DEAN BROWN: I therefore move:

New clause, before clause 18, after line 2—Insert new clause as follows:

Prostitution Counselling and Welfare Fund

17A. (1) The Prostitution Counselling and Welfare Fund is established.

(2) The fund is to consist of—

(a) money appropriated by parliament for the purpose;

(b) income arising from investment of the fund.

(3) The fund is to be applied from time to time by the minister, in accordance with the directions of a board established by the minister, for the following purposes:

(a) providing, or facilitating the provision of, assistance and advice to persons wishing to give up prostitution, including—

(i) assistance in gaining access to training or education in other occupations;

(ii) services aimed at overcoming problems associated with drug or alcohol abuse or sexual abuse;

(iii) counselling services; and

(b) paying the administrative expenses of the fund.

(4) The board is to consist of 3 members—

(a) who have, between them, knowledge of the prostitution industry and expertise in vocational training or education and services aimed at overcoming problems associated with drug or alcohol abuse or sexual abuse; and

(b) each of whom has a commitment to minimising difficulties experienced by persons wishing to give up prostitution; and

(c) at least 1 of whom is a woman and 1 a man.

(5) The procedures of the board will be as determined by the minister.

I acknowledge that the member for Mitchell has spoken to me on this issue, and as a broad principle I have agreed to move this amendment because, being a money clause, it can only be moved by a minister, so the matter can now be debated in the parliament. I want to acknowledge that the member for Mitchell was the person who came to me to discuss it with me, but I support the principle.

I have had similar experience with the Gamblers Rehabilitation Fund, which I administer as Minister for Human Services. I believe that in setting up something like prostitution it is very important indeed that those people who are caught by the profession of prostitution but who really want to get out of it for various reasons are given all the help they need to get out of it. Often people who are caught by prostitution have other problems; they may have a drug or alcohol problem, or they may not. I am not trying to suggest that every one of them does, but there are often compounding problems here.

I believe that people need help and counselling to work through the problems that they may have. Some of the people who come into prostitution may do so at a very early age. They may get hooked in that it is the only form of income that they have available, and they may wish to get out of it with counselling but they do not know where to go, and I think appropriate support for them should be made available.

The amendment that I have moved does not specify an amount of money, because I believe that should be up to the government of the day. However, it creates the framework under which a fund would be established. A board of at least three people would be appointed to administer that fund, and those people must have appropriate expertise in vocational training and education, in prostitution and also in counselling, and they must also have some understanding of counselling in the area of drugs and alcohol. It would be administered by the minister responsible for the act so, as part of the administration of this broad act, that minister would have responsibility for this specialist board. A very good analogy has already been established with the Gamblers Rehabilitation Fund, where a board allocates money to various non-government agencies.

I want to stress one point here: the fact that the money comes from the government does not mean that the money needs to be spent through the government. In fact, the board may allocate money from the fund out to various non-government agencies, and that would be my preferred choice. There are various non-government agencies available; there is a classic example already in Perth where such a body has been set up and is helping a large number of people who are currently involved in prostitution there and who may wish to leave the industry. I know that the member for Mawson has taken a particular interest in this and that he supports the same principle, provided that it is done in that case through a non-government agency.

I support the proposed amendment and the concept of setting up a fund. I also support the concept of giving counselling, advice and support to those people who wish to leave the industry but who for various reasons feel that they are entrapped by it and need appropriate counselling to escape from it.

Mr HANNA: When I considered the prostitution reform upon which this parliament was embarking, as I said earlier, I particularly sought several outcomes. One of them was for this parliament to provide resources to assist the limited number of people involved in the prostitution industry who are, in a sense, trapped. I acknowledge that at some level every prostitute goes into prostitution with a certain amount of choice, but I believe that a number of particular factors can make it difficult for people to leave prostitution. One is the fact that very often drugs are involved.

Secondly, some people are under pressure from a pimp who may be a boyfriend or a boss, and that can be a difficult situation to escape from. Thirdly, there is a cultural environment where a person who is working as a prostitute but has some doubts about continuing as a prostitute may have no-one to whom to turn to talk about the alternatives. They may not wish to go to a religious organisation that may have a particular slant on the matter which might be very unattractive to someone working in the prostitution business. Fourthly, the kind of woman or man whom I am talking about may have very limited education and therefore limited opportunities in the workplace.

Various special cases are the subject of special provision by parliament, for example, domestic violence victims, drug addicts and so on. These kinds of people have specialist services provided by government. For the past century or two, the parliament has adopted a Victorian England approach to prostitution that is highly punitive of the women involved. I think that is disgraceful, because it does nothing in a practical and supportive way to help those who wish to change occupations once they have worked as a prostitute.

It is for those reasons that, with the help of Parliamentary Counsel, I drafted this provision. I felt that it was necessary to specify a fund, because I wanted to ensure that something would be done. I did not want it to be just talk or just empty phrases; I wanted to ensure that a fund would be set up and that a future minister, cabinet or government can make the appropriate decisions at the time about the level of funding that would be appropriate. This simply sets up the structure; it is up to governments in the future to make the appropriate funding decision.

The structure set up by this amendment is one where the appropriate minister, that is, the minister to whom the legislation is entrusted, will select a board which will comprise people who know about the prostitution industry and also some of the problems that might be faced by people who wish to switch occupations from prostitution to something else. The sort of thing I have in mind is that the board may set up a specialist telephone counselling service. I do not imagine that the demand would be very great—for example, not as great as domestic violence victims fleeing their partners—but I believe it is essential to have a specialist service.

The way I envisage the service working is that the funding may lead to the outsourcing of the service to an agency which already has all the infrastructure—perhaps an agency such as Mission SA, Relationships Australia or the Sexual Health Information Network—and which deals with the sorts of issues that may be faced by prostitutes who are considering giving up the work that they are doing.

Members will note from subclause (3) that there is a heavy emphasis on helping people look at alternative training or education so that they are equipped to work in some other occupation should they choose to. There is also an emphasis on overcoming problems that might arise from drug or sexual

abuse. This amendment is about greater freedom of choice, because I believe that prostitutes on one level are choosing their occupation (and they will be choosing a legitimate occupation when this bill is passed), but I want them to have an equally free choice to move on from prostitution. I believe that the government has a role in supplying specialist help to assist the transition from prostitution to another activity.

This is not an amendment that casts any judgment on the work of prostitutes: it is a social health measure. I acknowledge the assistance of the Minister for Human Services. I discussed my proposed amendment with a number of ministers. The Minister for Human Services just acknowledged the Minister for Police, Correctional Services and Emergency Services, who I must say was quite unsympathetic to what I was trying to do. I am glad that the Minister for Human Services has moved this amendment, which I drafted, because it is a money clause and therefore it was not appropriate, given our traditions of parliament, for a backbencher to move the amendment. I commend it to members.

The Hon. M.K. BRINDAL: I merely ask the committee to take note of the fact that I believe that this is a laudable amendment and that it deserves due consideration. I ask the committee to note that it is most unusual for this committee to pass a measure for appropriation that has not been considered by the executive government; and that, in the spirit in which we have been operating tonight, this committee allow the government to consider the financial implications and to do so between the houses.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: I was asked whether I wanted to speak and I am speaking. The member for Spence likes to honour agreements and what I am saying is that, before this clause is taken, the government would give a commitment between the houses to consider this matter properly and carefully. It is unusual to do it in this form. The government is quite prepared—and I say 'the government', not I as an individual, not this house, but the government—to consider this matter between the houses. I ask that that matter be considered in voting on this clause.

Mr LEWIS: I just wanted to make the point that, whilst the minister says that it may be unusual for the committee to pass something, I do not know what executive government has considered: that is a matter for cabinet, but the fact remains that parliament is sovereign, not the executive.

New clause inserted.

New clauses 17B, 17C and 17D.

The Hon. M.K. BRINDAL: I move to insert the following:

PART 3A
ENFORCEMENT

Powers of police officers

17B. (1) A police officer may enter and search premises if the officer has reasonable cause to suspect that—

(a) an offence related to prostitution is being or is about to be committed on the premises; or

(b) evidence of the commission of such an offence may be found on the premises; or

(c) evidence of proper grounds for a banning order may be found on the premises.

(2) A police officer may exercise powers under subsection (1)—

(a) with the consent of the occupier; or

(b) as authorised by a warrant issued under this Part.

Search warrants

17C. (1) A police officer may apply to a magistrate for a search warrant authorising the officer (or any other police officer) to enter and search specified premises.

(2) An application for a search warrant may be made—

(a) personally; or

(b) if the applicant is investigating a suspected offence punishable by imprisonment and, in the applicant's opinion, the warrant is urgently required and there is insufficient time to make the application personally—by telephone.

(3) The grounds of an application for a search warrant must be verified by affidavit.

(4) A magistrate may issue a search warrant if satisfied that the warrant is reasonably required in the circumstances.

(5) The magistrate—

(a) must specify in the warrant the period (not exceeding 7 days) for which the warrant will remain in force;

(b) may, if the warrant will remain in force for 24 hours or less, issue the warrant for two or more different premises;

(c) may limit the hours during which the warrant may be executed or impose other conditions on the execution of the warrant.

(6) A magistrate by whom a search warrant is issued must file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Magistrates Court.

Issue of warrant on telephone application

17D. (1) This section deals with the procedure for the issue of a warrant where the application for the warrant is made by telephone.

(2) The applicant must inform the magistrate of his or her name and identify himself or herself as a police officer, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant is a police officer.

(3) The applicant must inform the magistrate of the grounds on which he or she seeks the issue of the warrant.

(4) If it appears to the magistrate from the information furnished by the applicant that there are proper grounds for the issue of a warrant, the magistrate must inform the applicant of the facts on which he or she relies as grounds for the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts.

(5) If the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts on which he or she relies as grounds for the issue of the warrant.

(6) The warrant will be taken to have been issued, and will come into force, when signed by the magistrate.

(7) The magistrate must transmit the warrant to the applicant by facsimile transmission or, if this is not possible, inform the applicant of the terms of the warrant.

(8) The applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts on which the magistrate relied for issuing the warrant.

New clauses inserted.

New clause 17E.

The Hon. M.K. BRINDAL: I move to insert the following:

Carrying out search

17E. (1) A police officer exercising powers to enter and search premises under this Part may be accompanied by such assistants as the officer considers necessary in the circumstances.

(2) A police officer may—

(a) when exercising powers authorised by warrant issued under this Part, use reasonable force for either of the following purposes (an authorised objective)—

(i) to gain entry to the premises (or any part of the premises);

(ii) to open anything in the premises that may contain evidence of an offence; and

(b) seize and retain anything found in the course of a search that the officer believes affords evidence of an offence.

(3) If—

(a) an authorised objective might be achieved without the use of force through the cooperation of another person; and

(b) the other person is present and available to be asked for cooperation,

the use of force to achieve the objective is not reasonable unless the police officer has asked for the person's cooperation and the person has refused to cooperate or has failed to comply promptly with the request.

(4) A police officer who carries out a search must, as soon as practicable after doing so—

(a) prepare a notice in the prescribed form; and
(b) give the notice to the occupier of the premises or leave it for the occupier in a prominent position on the premises.
(5) The notice must contain—
(a) the name, rank and identifying number of the police officer responsible for carrying out the search and the name of any person assisting the police officer; and
(b) if the search was authorised by warrant—
(i) the name of the magistrate who issued the warrant and the date and time of its issue; and
(ii) a description of the premises to which the warrant relates and of the authority conferred by the warrant; and
(c) a description of anything taken from the premises.

Mr LEWIS: I move:

New subclause (2)—After paragraph (b) insert:
(c) require any person found on the premises to answer questions or to produce documents.

In simple terms, the principal clause I am seeking to amend lets the police know what they can do. I think that it is merely an oversight that the bit I want to add to it was not included. I have suggested that we should add a new paragraph (c) to new subclause (2) and that the additional proviso be that police officers may require any person found on the premises to answer questions or to produce documents. We are already saying, if we agree to this clause, that they have powers, and I think that we should. They have powers to use reasonable force. They must be able to break. They cannot knock on the door and wait until the evidence has been destroyed, and I commend the minister for including that. It was what I had proposed elsewhere, anyway.

The police are allowed to get in and to open anything in the premises that may contain evidence, and they are allowed to seize and retain anything they find. I am simply saying that they may require any person found on the premises to answer questions or to produce documents. I had wanted to say that they should also be allowed to take photographs, and so on, but I thought I would be pushing my luck a bit on that, so I left it out.

The committee divided on the amendment:

AYES (15)

Atkinson, M. J.	Brown, D. C.
Condous, S. G.	Hamilton-Smith, M. L.
Kotz, D. C.	Koutsantonis, T.
Lewis, I. P. (teller)	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Scalzi, G.	Snelling, J. J.
Venning, I. H.	White, P. L.
Williams, M. R.	

NOES (30)

Armitage, M. H.	Bedford, F. E.
Brindal, M. K. (teller)	Brokenshire, R. L.
Buckby, M. R.	Ciccarello, V.
Clarke, R. D.	Conlon, P. F.
De Laine, M. R.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Gunn, G. M.	Hall, J. L.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Ingerson, G. A.
Kerin, R. G.	Key, S. W.
Matthew, W. A.	Olsen, J. W.
Oswald, J. K. G.	Penfold, E. M.
Rankine, J. M.	Rann, M. D.
Stevens, L.	Such, R. B.
Thompson, M. G.	Wright, M. J.

Majority of 15 for the noes.

Amendment thus negatived; new clause inserted.

Remaining clauses (18 to 20) passed.

Schedule 1.

The Hon. M.K. BRINDAL: I move:

Page 11, after line 16—Insert new subclause as follows:
(3a) An applicant to whom a certificate is issued under subclause (3) has no entitlement to, or legitimate expectation of, the grant of an approval to continue using the premises as a brothel.

Amendment carried; schedule as amended passed.

Schedule 2.

The Hon. M.K. BRINDAL: I move:

Schedule 2—
New Part (comprising clause A1), before Part 1 of Schedule 2—Insert new Part as follows:
Part 1A—Amendment of Criminal Assets Confiscation Act 1996
Amendment of Criminal Assets Confiscation Act 1996
A1. The Criminal Assets Confiscation Act 1996 is amended—
(a) by inserting after subparagraph (iii) of paragraph (c) of the definition of 'local forfeiture offence' in section 3 the following subparagraph:
(iiia) section 4(1)[1], 4(2)[2], 7(1)[3], 7(2)[4], 11A[5], 13(1)[6] or 14[7] of the Prostitution (Regulation) Act 1999; or

1. Section 4(1) of the Prostitution (Regulation) Act 1999 makes it an offence for a body corporate to carry on or be involved in a sex business.
2. Section 4(2) of the Prostitution (Regulation) Act 1999 makes it an offence for a natural person to carry on or be involved in a sex business if he or she has not attained 18 years of age or has been convicted of a prescribed offence.
3. Section 7(1) of the Prostitution (Regulation) Act 1999 makes it an offence to carry on a business in contravention of a banning order.
4. Section 7(2) of the Prostitution (Regulation) Act 1999 makes it an offence for a person to be involved in a business in contravention of a banning order.
5. Section 11A of the Prostitution (Regulation) Act 1999 makes it an offence if more than one brothel is used at any one time in the course of a sex business or if a sex business is carried on from more than one place of business at any one time.
6. Section 13(1) of the Prostitution (Regulation) Act 1999 makes it an offence for a person to advertise the availability of sexual services except by means of a permitted advertisement.
7. Section 14 of the Prostitution (Regulation) Act 1999 makes it an offence for a person to advertise that he or she or some other person is seeking or offering to employ or engage a person to act as a prostitute.;

(b) by striking out from paragraph (c)(v) of the definition of 'local forfeiture offence' in section 3 '28(1)(a),';

The Hon. DEAN BROWN: Mr Chairman, I ask for clarification of the matter. If this is dealt with here, I presume that I can still then deal with schedule 2, new part 2A?

The CHAIRMAN: Yes.

The Hon. DEAN BROWN: I want to deal with that separately. Will I let this go through and then deal with the new part?

The CHAIRMAN: Yes, when the schedule as amended is put.

Amendment carried.

Mr LEWIS: I move:

Page 12, after line 5—Insert new paragraphs as follows:
(a1) by inserting the following section after section 68:

Mandatory imprisonment for offences related to commercial sexual services

68A (1) If a person is convicted of an offence against section 66, 67 or 68, the court must impose a sentence of imprisonment.

(2) A sentence the court is required to impose under subsection (1) cannot be mitigated or substituted under any other law;

(a2) by inserting after the present contents (now to be designated as subsection (1)) of section 69 the following subsections:

(2) If a person is convicted of an offence against this section, the court must impose a sentence of imprisonment.

(3) A sentence the court is required to impose under section (2) cannot be mitigated or substituted under any other law.

How many members here tonight really believe that it is a good idea to let people get away with recruiting children into prostitution? How many people believe that it is a good idea to let them get away with nothing more than a fine if they engage in sexual slavery? They are the circumstances in which young men or young women can be brought into this country, probably on a tourist visa, and put into sexual slavery not knowing what are their rights or able to speak English. How many people equally believe in the third provision that deceptive recruiting to prostitution ought to involve just a fine? I do not think that under any circumstances those three practices ought to be tolerated as being expiable by the payment of a few thousand dollars, yet that is the way it is at present. They will get away with a fine.

We should make it mandatory that those people go to prison. People who are bringing other folk in here and committing them to prostitution, possibly deceiving others into it and putting children into prostitution, should go to prison—no questions asked. No way should they be able to buy their way out. They do it for no other reason than to make money and they will make a lot of money out of it if we let them get away with it. If they think they can cover their costs, they jolly well do it. They do it in other places and think nothing of it, and if they believe they can get away with it in Australia, in South Australia in particular, they will do it. They are already doing it in Sydney. I do not know whether or not they are doing it in Melbourne, but I would not be surprised if they are. We simply ought to send a strong message to those people: come here and get into that sort of act and we will lock you up.

The Hon. M.K. BRINDAL: I seek your guidance on this matter, sir. The amendment proposed by the member for Hammond seeks to insert a new law in the Criminal Law Consolidation Act on matters related to sexual servitude as dealt with in sections 66, 67 and 68 of that act. The amendments moved by the member for Hammond provide for mandatory sentencing within that act. We are dealing with a schedule, which makes relevant corrections to another act consequent on this act.

Members interjecting:

The Hon. M.K. BRINDAL: I am just trying to find out whether we can deal with it. We do not have that act open at present.

Mr Lewis: Parliamentary Counsel told me we could.

The CHAIRMAN: Order! It is appropriate for the matter to be considered—it is under the amendment to the Criminal Law Consolidation Act.

The Hon. M.K. BRINDAL: I propose that the committee not deal with this matter. The sexual servitude legislation was dealt with recently by this House. This condition imposes a mandatory sentencing condition. I personally believe that mandatory sentencing is inappropriate. They are serious offences.

Mr Atkinson: In all circumstances?

The Hon. M.K. BRINDAL: In the circumstances I am outlining to this committee tonight. These are serious offences and we should not make light of it.

Mr Atkinson interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: They have heavy penalties and at present, appropriately, judicial discretion is allowed so that individual penalty can be made to fit the individual circumstance. I am not proposing that we should oppose it. The member for Hammond is saying that it is a serious crime and should be dealt with severely. I merely put to the committee the proposition that it is dealt with severely, that it should not be mandatory sentencing as that is what we have judges for, and courts do make the punishment fit the crime, to quote trial by jury.

Mr LEWIS: Notwithstanding what the minister has just said, I think these crimes are heinous: committing someone to sexual slavery in circumstances where very often they do not know what is happening to them until it is too late and they have no way out, and also recruiting children to prostitution. How can the minister honestly say that that ought not to involve a prison sentence? If children are recruited to prostitution, why cannot we as the law makers say what we believe the community wants? You go out and survey the community after they have been shown a documentary on what is happening and see if 90 per cent do not say, 'Put the sods in prison and throw away the key.' I cannot believe that anybody would want anything less than a prison sentence for a crime like this. It ruins the victim's life, especially in cases where it is a child, whether a boy or a girl.

The Hon. M.K. BRINDAL: It is getting late and I do not want to prolong the committee. I make the point again that under the sexual servitude act dealt with in this chamber only in the past few weeks this House made a determination in regard to these offences. That determination was that these are serious offences and should be dealt with as such and the House at that time set penalties, which I see no reason to change. The House is sovereign and has the right to do anything it wants. I still contend that we have had a go at that bill. We made a decision a few weeks ago and this is an attempt to revisit that bill.

Mr ATKINSON: I do not agree with the member for Hammond's amendments, but it is entirely in order to revisit this aspect of the law because the changes to the prostitution penalties under the sexual servitude bill were carried both in the other place and in here on a party line vote by the government, and the member for MacKillop confirms my assertion. Labor members were free to vote on conscience on those clauses because they related to prostitution. The Attorney-General and the government whipped every government member into supporting a reduction of penalties for procuring a person to be a prostitute. The minister knows that it is true and it is entirely appropriate that at this juncture Liberal MPs are entitled to vote freely. What you will see is that many of them vote differently from when they were whipped in by the minister and his government.

Mr MEIER: Having listened with interest to what the member for Spence has just said, I well recall engaging in that debate and arguing why I was then supporting the lower penalties. I put forward the argument very clearly then against virtually everyone on that side in saying, 'I hear what you are

saying; you will have the opportunity to increase those penalties during this debate.' I am sure that most of the people opposite will support an increase in penalties in this respect tonight on this amendment.

Amendment carried.

Mr CONDOUS: I move:

Clause 4, page 13, lines 3 to 8—leave out all words on these lines after 'is amended by' and insert:

by inserting at the end of the definition of 'worker' in section 3(1) 'but does not include a prostitute within the meaning of the Prostitution (Regulation) Act 1999.'

Under this amendment a prostitute will not be a worker for the purposes of the Workmen's Compensation and Rehabilitation Act. The act will have no application to prostitutes, whether they are self-employed or employed by another. The reason for that is that, in the eastern states, where there has been decriminalisation of prostitution, no prostitute actually works for a brothel, as the people who own the brothels are not prepared to take on a working girl and then have her under WorkCover, under all the other things such as annual leave, loadings and covered by workmen's compensation and rehabilitation.

What happens in those states is one of two things. First, a client goes into a brothel, selects the girl of his choice, takes her to the front counter where he pays the brothel owner $90 for the use of the room and then goes up into the room and negotiates the price of the sexual act. The other alternative is that the girl takes the client immediately up into the room, he gives her a fee that includes the hire of the room and then at the completion of the act goes downstairs to pay the brothel owner the $90 or whatever is set for the use of the room. What they are working on is either a franchise or an agreement that is drawn up by every house, and I have a copy of the agreement of one particular brothel at Milsons Point in Sydney.

Members interjecting:

Mr CONDOUS: Is there any order in this place or not?

The CHAIRMAN: The member for Colton does have a point, as I have said on a number of occasions tonight. There is a great deal of conversation occurring and the member for Colton can hardly be heard. The member for Colton.

Mr CONDOUS: What happens is that no-one will employ a prostitute; rather, she works in a brothel for herself paying for the use of the room, which covers the advertising carried out by the brothel to procure the clients and also for the cleaner to come in and refurbish the room after each visit. It would be a ridiculous message to be sending out to the community that we were going to cover a very high risk, sexually transmitted disease industry for workmen's compensation. We have read in the papers here in Adelaide that two prostitutes—

Members interjecting:

Mr CONDOUS: I might as well give it up and forget about it.

The CHAIRMAN: Order! The member for Colton.

Mr CONDOUS: We read in the local press where two prostitutes in Adelaide were HIV positive but continued to work, and there was nothing in the law to allow anyone to stop them from continuing as a prostitute. Who knows how many men they could have infected? It is all right to say that they will use a condom, but let members put themselves in that situation.

If you knew that one of the prostitutes you were using was HIV positive, even though she assured you that you had nothing to worry about because you were wearing a condom, I would say that it would be the next thing to playing Russian roulette.

I think the public would be very angry if this parliament showed a lack of respect to our community, when our workers are in some cases in dangerous jobs and in others where there is a high risk of injury, to have those people covered and to say in the next breath that we are going to cover some prostitutes for workmen's compensation. I think that it would be the wrong message to send and I urge members to vote in support of the amendment.

The Hon. M.H. ARMITAGE: I believe that this amendment and the clause of the schedule ought to be opposed. In so doing I foreshadow a commitment that an amendment will be made to the Workers Rehabilitation and Compensation (Claims and Registration) (Regulations) Bill by adding a further category of work under those regulations as follows:

Providing sexual services in the course of a lawful sexual business within the meaning of the Prostitution Act.

In essence, we are acknowledging that there will be a regulatory change and accordingly will oppose this clause and the amendment.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That standing orders be so far suspended as to enable the House to sit after midnight.

Mr LEWIS: Divide!

While the division was being held:

The SPEAKER: There being one member voting for the noes, the motion is therefore resolved in the affirmative.

Motion carried.

The CHAIRMAN: In order to achieve his aim, the minister will have to move to leave out clause 4 of schedule 2.

The Hon. M.H. ARMITAGE: We oppose the amendment, but I foreshadow that we will also oppose the clause. So that everyone is absolutely clear, we are suggesting that in the Workers Rehabilitation and Compensation Claims and Registration Regulations, there is a list of prescribed classes of work which include, amongst other things, taxi driving, cleaning, entertaining, and so on. These bills include work in a sex business as a prescribed class of work, but the method used to do that is by amending the interpretation section of the act not the regulations. We believe that it is more appropriate that this class of work be treated like other classes of work. Accordingly, we oppose the amendment and the clause but, in so doing, I foreshadow that an amendment will be made to the Workers Rehabilitation and Compensation Claims and Registration Regulations to add a further category of work to regulation 4(1), which will provide:

Providing sexual services in the course of a lawful sex business within the meaning of the Prostitution Act.

So that the committee is clear, and because a number of members spoke to me during the division, I inform the committee that, in New South Wales, where the sex industry has been operating legally for several years, the industry is not considered to be high risk by its workers compensation body. That industry is now developing guidelines for OH&S management in brothels. According to the New South Wales report, injury management and rehabilitation is not considered to be problematic.

In Victoria—and this is possibly of even greater interest—where the sex industry was legalised in 1994, the Victorian

WorkCover authority has recently completed a review of its database. Factually, it noted very few workers compensation claims and OH&S incident reports and queries. That is encouraging in the first instance, but I guess that is more anecdotal to relieve the anxiety of members. In relation to coverage, we believe that that would be done better by way of regulation, and we foreshadow that that will occur.

Mr CLARKE: I thank the minister for that information and the assurance that he has given. I think that it is more appropriate for workers in this industry to be covered by the method that he has announced to the committee. The regulation will come into force at the same time as any bill that eventually goes through this parliament will be proclaimed so that there will be no gap between the proclamation of the act and when workers are covered.

The other point that I make for the benefit of the member for Colton and other members who might be persuaded to vote for their amendment—that a sex worker will not have any cover under workers compensation—is scandalous. If members of this House—and there are a number—genuinely hold the view that we should not support this bill and legalise brothels, then by all means they should vote against the legislation. However, once this parliament determines that there will be legalised brothels, they should not penalise the workers by saying they are not entitled to workers compensation.

If you cannot win and keep brothels illegal, if you lose that argument, accept it, but do not penalise the workers. You will be saying in a spirit of meanness, 'Because you managed to have brothels legalised, we will go through the back door and penalise the workers in the industry by not allowing them to be covered by workers compensation as would any other worker in a legitimate business.' I think that is a mean spirited attitude on the part of those who seek to deny the workers in this industry workers compensation once the parliament decides that it is a lawful business.

Mr SCALZI: I have difficulty with providing work cover for sex workers, not because of any meanness but because the reality is that prostitution never has been, is not and never will be like any other occupation. The reality is that in places where it has been decriminalised or legalised, two-thirds of brothels are illegal. I commend the member for Ross Smith for his humanity in relation to protecting workers, but his humanity extends only as far the one-third which are legal. The two-thirds of workers outside the legalisation model are those who are not as good looking or attractive. Some of the ladies opposite may find that offensive. Some of those members find it offensive when people talk about beauty contests. They say that they are wrong, that they are meat markets, and so on. Let us not have double standards.

The reality is that two-thirds are still illegal and they are the ones who are on the margins and who cannot find employment in the top brothels. They might have more of a drug problem. Who will cover them? How are we to determine what premiums these workers must pay? How will we determine when they are injured and how? How do we determine whether someone is earning $5 000 a week or $3 000 a week; or that someone who is earning $500 week might also be receiving a part pension—because you can earn up to $70 a week? How do you work out all those problems?

Ms Rankine: Records.

Mr SCALZI: 'Records,' the honourable member says. What happens when you are trying to rehabilitate someone who has been injured? How will you determine what are light duties in this business?

An honourable member interjecting:

Mr SCALZI: How will you determine it? I ask the member to tell me. How will you rehabilitate someone? How will you check whether they are fit to be a sex worker? What organisation will inspect them and say, 'Now you can go on light duties. You can rehabilitate back into the industry'? That is what WorkCover means. That is what it means when you treat it like any other business. I am not known for being dispassionate.

An honourable member interjecting:

Mr SCALZI: I supported the member for Mitchell's initiative to help people get out of the industry. I commend him, as I commend the minister, but the reality is that prostitution is not like any other business. It is not clear cut. The evidence taken by the Social Development Committee indicated that very few people are in the industry for 10, 15 or 20 years. It is not a clear-cut career path. Guess what? The industry rejects you as you get older. When it starts rejecting you as you get older, your self-esteem goes down and you have a nervous breakdown, does that entitle you to WorkCover? Who will deal with those psychological problems?

The Minister for Government Enterprises says, 'We will treat them like cleaners, taxi drivers and entertainers.' We have a special category: they are a special category. It is a category that has gone on for thousands of years. As we found out tonight in relation to local government, we have double standards. The people in the community want it; the people accept it. But let us be realistic: local government will not accept it. This is the same sort of thing. We must have a special category, because it is not like any other business.

So, imagine the privacy arrangements for people working in this industry; imagine the single mother who might be in it just for five or six months as a result of some unforeseen circumstances. Under this regulation she will be registered, and she will be stigmatised. Many of us say that you should not treat sex workers in a derogatory way—and I agree. People say, 'You should not treat them like this,' but they will be stigmatised for life once they are registered and the industry has been legalised and legitimised. That stigmatisation continues forever. That is sad, and that is why I support ideas to help people to make a proper choice.

We assume that people who are involved in this type of work are there fully conscious and free and that they have made an objective decision to be there. No doubt there might be a small percentage to whom that applies, but not many prostitutes whom we interviewed on the Social Development Committee wanted to be there for a long time. They are there for the short term. They are there for the short term because of their circumstances, and they want an income which will get them out of the very work that they are doing.

We must provide options to enable them to get out of that type of work. It will not assist them for us to say, 'Yes, for these people we draw up a square in Adelaide. These are the areas in which it could be legal. This third gets protected and will be given cover. The other two-thirds out in the streets who happen to be drug addicts, and so on, will not get cover. They are outside the law and in fact we will get tougher with them.' Where is the compassion there? I oppose a WorkCover provision, not because I am mean but because I want to make clear that it is not an ordinary workplace.

Mr HAMILTON-SMITH: I want to ask the minister some specific questions on how the WorkCover provision may function on the ground, so to speak. Those members who may not have been employers or who may not have been involved in representing workers in the WorkCover scheme

may not quite understand how the scheme operates. I can envisage some difficulties with this. My understanding of the WorkCover scheme is that, generally speaking, workers are on an award or an enterprise agreement, or have a clearly defined income and salary level, and employers are charged a percentage of the payroll, if you like, as a WorkCover fee. That is the employer contribution which helps fund the scheme.

I can see some very practical difficulties in a brothel's operating an effective WorkCover program. I can see plenty of scope, for example, for cash transactions in a brothel—plenty of scope, as some of my colleagues have explained, in terms of avoiding the employer-employee relationship through letting out rooms or somehow understating the wage paid to the employee.

The WorkCover levy would be reduced to the absolute minimum for the employer, that person being the proprietor of the brothel, so we could end up with a situation where the employers are getting out of paying a full WorkCover levy by manipulating the figures in the way the contract works. There is no clearly prescribed award; it is very difficult to pin down what each worker is being paid, and therefore it is very difficult to ascertain the levy. My concern is that we could find the WorkCover system being abused in such a way that the employers do not pay the full levy and employees are putting in a lot of claims, resulting in considerable pay-outs. In effect the WorkCover scheme could be propping up this industry at a loss to the tune of thousands upon thousands of dollars. I ask the minister: how will the mechanics of this work? If we are to extend WorkCover provisions to these workers, how will we ensure that the employers do not scam the system and underpay their fee?

Flowing on from that, looking at the other side of the balance sheet, how will we ensure that employees do not rip off the WorkCover scheme? I can see plenty of scope for that. I certainly see this being high risk employment. I can see a lot of stress involved and a lot of potential for physical injury or aggravation of existing injuries—the back or the limbs: the possibilities are endless. What guarantee is there that after a short period as an employee in a brothel we will not find employees saying, 'Although I only worked as a prostitute for three months I suddenly aggravated my back or I developed this physical or psychological problem and I then expect the WorkCover system to support me.' I can also see scope for employers and employees to collude such that, having minimised their WorkCover levy, employers will say to their employees behind closed doors, 'Don't worry; if it's all too much, it gets too stressful, you're feeling worn out or physically abused or anything happens to you, it's all right; we'll make sure the WorkCover system picks up the tab.'

I have some very serious concerns about how the mechanics of this will work. I will raise an additional concern: will the exempt employers scheme be extended to brothel owners? Will there be an opportunity for certain employers to opt out of the system, provided they meet the occupational health and safety standards expected by WorkCover, so that they can escape paying the levy and provide some sort of employer funded protection for their employees? That is another little technical difficulty I can see on the horizon. Finally, what happens with sole trader provisions, involving instances where an employer might have only one employee? There might be two people working in the business and, as the employer and employee, they write themselves a WorkCover entitlement by declaring themselves to be injured, having paid their WorkCover fee at the point of their retirement. I see a lot of practical difficulties in making the WorkCover system apply to this industry. It is a little different from the employer/employee relationship, providing all the opportunities for the WorkCover system to be abused, and there is a very long history of such abuses by employers and employees. If the minister could give me some guidance on that I would feel much more comfortable before agreeing to this.

The Hon. M.H. ARMITAGE: I acknowledge that there are some legitimate concerns; however, the matter which the member for Waite raises as to how this industry may use its circumstances to defraud WorkCover is just that: it is a matter for the investigation of fraud within the WorkCover Corporation. As I am sure members would know, that is an active area of consideration for WorkCover. If an employer colluded with his or her employees to ensure that a smaller levy was paid than might be applicable, that is fraud, and WorkCover would take the action that it would take in relation to any other prescribed class of work under the regulations which I mentioned would cover this. The matter concerning exempt employers has not been brought to my attention. I would think it is highly unlikely that these workers and their employees would be in that circumstance but, if they were, exactly the same thing would be involved: all the provisions and expectations of exempt employers would apply, and WorkCover has a number of mechanisms to ensure that those clauses and expectations are met.

In relation to the actual 'on the ground experience', these workers will be covered by industrial awards; they will make contributions to WorkCover, there will be claims against the fund and so on, just as would apply to any other worker under any other regulated type of work. Indeed, part 2, schedule 2, of the bill defines a sex worker always as an employee, even without the contract being recognised at common law. So, it is basically saying that the employee, the sex worker, is always an employee.

Finally, the member for Waite expressed a number of concerns about an increased number of injuries or possible claims against WorkCover in this industry. The most important thing that I would identify to the member for Waite is that I think we can be comforted by the experience in New South Wales and Victoria that I quoted before. Just to reiterate to the committee, and to the member for Waite in particular, the experience of the New South Wales and Victorian WorkCover equivalents is that there are very few claims in this industry, so I do not think we can necessarily expect some huge blow-out in this industry because, strange as it may seem, it is a low risk industry.

The last thing I would say, in case this is the last time I am on my feet in relation to this matter, is that I undertake to address the member for Ross Smith's observation regarding the opportunity for a gap between the bill being proclaimed and the regulations under the WorkCover legislation being enacted; I will ensure that that gap is either non-existent or minimal.

Mr HAMILTON-SMITH: I thank the minister for his guidance, but I would like to get back to one of the issues that I raised earlier, and that is the issue of employers abusing this system, and the particular issue of how the levy rate will be determined. The minister has made the point that prostitutes working in brothels will be covered by an award. My colleague the member for Colton has pointed out that the normal arrangement in New South Wales is that it is almost a subcontracting situation; that the client sometimes pays for the room and then pays the prostitute separately, and that virtually it is a situation of being self-employed. Why would

employers not seek to escape their obligation to pay the levy by such arrangements and, even if they chose not to escape the levy in that way, why would they not understate the award wage and somehow seek to minimise their WorkCover levy whilst still benefiting from some sort of protection? I seek the minister's guidance on that danger.

Also, I put this proposition to the minister: is it not that this could be described as, perhaps, high-risk employment in the same way—although it is perhaps not a very good analogy—that a football player in an AFL football team might be engaged in a high-risk activity? Whilst I accept the minister's point that in New South Wales there has been a low incidence of injuries, I also note that the New South Wales WorkCover scheme is in total disarray, in considerable debt and is under-funded to the tune of billions of dollars.

Is it not like a football player: you are engaged in a high-risk activity and you perhaps expect to get a psychological or physical injury at some stage? Should we therefore not extend WorkCover to this employment in the same way as we do not extend WorkCover to professional sports people? I put that proposition to the minister. I am interested in the issue of the levies and the issue of the high-risk employment.

The Hon. M.H. ARMITAGE: The levies will be struck as any other levy would be struck for a class of worker. There would be nothing different. No special levy would be set for these workers and, in relation to the suggestion that these workers would be engaged in a high- risk industry, I can do no more than reiterate for the second time, at 12.30 a.m., that the whole WorkCover thesis relates to historical events in any industry. That is how the WorkCover system works. In this industry, in both New South Wales and Victoria, the experience is that they are not high-risk industries.

I must say that I am not surprised that people find that an interesting fact. Indeed, when I was briefed on it some months ago, when this bill was first mooted, I recall that my writing on the minute was 'Interstate experience will be of interest.' It is interesting that where these workers in this industry have in fact been eligible for WorkCover cover, there has been a small claims and OH&S experience.

In relation to employers understating levies and employees understating contributions, and so on, as the member for Waite raised again, I reiterate that there is nothing that WorkCover can do other than its normal fraud mechanisms. By foreshadowing an insertion into the regulations of a class of worker, we would be looking to have exactly the same expectations of employers and employees and exactly the same experiences of fraudulent and non-fraudulent behaviour as in other industries. So, I contend that this industry would be no better or no worse than a number of other industries. WorkCover has a number of mechanisms in place to ensure that fraud is not perpetrated against it, and I assure members that, as the minister responsible for WorkCover, we are intent on uncovering every bit of fraud that we possibly can.

Mr SCALZI: The minister has told us several times that this is not a high-risk area. A significant proportion of the trade takes place in the form of escort agencies. In terms of danger, if you ask a sex worker the difference between working in a brothel and doing a home visit, or visiting a motel, or whatever, to meet the client—

Ms Thompson interjecting:

The CHAIRMAN: Order!

Mr SCALZI: Domiciliary care. I had better not respond to that interjection.

The CHAIRMAN: The honourable member is out of her seat.

Mr SCALZI: Does the minister envisage the same type of levy and cover for those who work on the premises and for those who work outside? My understanding is that it is a high-risk area and that is why some people say that it is safer to work in a brothel than outside. There is the danger of getting beaten up by going to the wrong place, or being confronted by more than one client, and so on. How will we deal with claims, if they do arise, as a result of such incidents?

The Hon. M.H. ARMITAGE: I reiterate a couple of matters. A number of industries are dangerous, and that is why there are WorkCover claims. The interesting thing, though, despite the member for Hartley's feelings about this (and those feelings would, I guess, be expressed by a large number of people), is that the claims experience is at variance with that expectation. Whilst there may be some different dangers in the sex industry, depending on where the worker is providing the services, at the end of the day, across the industry, the experience in New South Wales and Victoria is that it is a low-claim business.

Factually, I know from my days when I was Minister for Health that, in fact, it is an industry where the incidence of sexually transmitted diseases, particularly the more major ones, is very low. I empathise with the members for Waite and Hartley in expressing their concerns. I am absolutely sure that they would be reflecting the opinion of a large number of members of the community. Factually, however, the claims experience gives the lie to that. I would not expect that the claims experience in South Australia would be any different from where people have been involved in this industry for some time.

Certainly, I make the point that workers, if one is looking at occupational health and safety concerns, are much more secure when they are working in a legal industry than when they are in an illegal one.

Mr WILLIAMS: I am rather astounded by the minister's statements on this matter. I am astounded, despite what the member for Ross Smith said and the emotionalism about workers being protected. I have come from an industry where the majority of the people working in that industry are self-employed. It is a high-risk industry, yet most of us get by. I do not know that it is absolutely essential for every person who works in the nation to be covered by WorkCover. I am astounded that we would attempt to bring this class of worker within the provisions of the Workers Rehabilitation and Compensation Act.

An honourable member interjecting:

Mr WILLIAMS: They probably will end up being subcontractors and will not be picked up by this, as the member says. I have some serious concerns about the ability of the WorkCover Corporation to ensure workplace safety and safe work practices. The mind boggles when one considers how a bureaucrat might go about policing safe work practices in this industry.

The Hon. M.H. ARMITAGE: The whole purpose of prescribing sex work under the Workers Rehabilitation and Compensation Act is to catch the subcontract arrangements. I reiterate that in schedule 2, part 2, we amend the Industrial and Employee Relations Act as follows:

(a) by inserting after paragraph (d) of the definition of 'contract of employment' in section 4(1) the following paragraph:

(e) a contract under which a person (the 'employer') engages another (the 'employee') to provide sexual services in the course of or for the purposes of a sex business (even though the contract would not be

recognised at common law as a contract of employment);

These people are employees and, as I said, the purpose of prescribing sex work is to ensure that the subcontract arrangements are captured. Employers and employees were ever thus. They will routinely attempt to structure their arrangements such that the impositions of the dead hand of government are as minimal as possible. However, by going down this path, we are doing the best we can to ensure that the workers are given appropriate workers' rehabilitation coverage in an industry which, despite what everyone may assume or may think on a claims basis where it has been done in the same sort of circumstances in two states for seven years or more, the claims experience is very low, even though that may—

Members interjecting:

The Hon. M.H. ARMITAGE: Safe work practices are another reason for bringing WorkCover into all this. They are interested in promoting safe work practices.

Mr HAMILTON-SMITH: I have no worry with the principle that we should be trying to ensure the safety and wellbeing of these employees. However, I am struggling with the appropriateness of WorkCover being that vehicle. I point to the issue of the bonus penalty scheme within WorkCover which, as members would be aware, is a scheme whereby if the claims history in a place of employment is low, the employer is rewarded with a lower premium; if the claims history is high, the employer is appropriately punished with a higher levy. Is it not a bit of a disincentive for a brothel operator to continue the employment of somebody? This is an industry that, to date, has historically been a little rough and ready in terms of rules and the way it is run. Will employers not pressure employees not to make a claim so that they do not run up a penalty in the bonus penalty scheme and keep down their WorkCover levy? I am pointing back to this issue of employers rorting the system; that is a potential risk.

We have had a lot of input during this debate from people pointing to the fact that this sort of work puts employees under enormous psychological pressure. We have been told that they are all victims and that they are all mentally damaged as a consequence of their employment. Are we not basically saying to people, 'Even though you are engaged in this very damaging activity, don't worry—we'll just fund it out of the publicly operated WorkCover system'? We are then throwing the problem back onto the taxpayer and the WorkCover scheme. Would it not be better to have a subcontracting arrangement, where the employees take responsibility for themselves, either as a subcontractor or we have some other legislative vehicle that requires employers to provide in some other way through a private scheme or private arrangement for the workers to be covered in the event of injury? The whole thing just seems be a little difficult to implement in the light of the complexities of the WorkCover scheme. Will the minister comment on that?

The Hon. M.H. ARMITAGE: Whilst recognising the allegation made by the member for Waite that this has been a rough and ready industry in the past—I make no judgment about that—the whole point of legalising it and bringing people within the WorkCover regime is to stop those practices.

The committee divided on the amendment:

AYES (14)

Buckby, M. R.	Condous, S. G.
Evans, I. F.	Gunn, G. M.

AYES (cont.)

Hamilton-Smith, M. L.	Kotz, D. C.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Penfold, E. M.	Scalzi, G. (teller)
Venning, I. H.	Williams, M. R.

NOES (29)

Armitage, M. H. (teller)	Atkinson, M. J.
Bedford, F. E.	Brindal, M. K.
Brokenshire, R. L.	Brown, D. C.
Ciccarello, V.	Clarke, R. D.
De Laine, M. R.	Foley, K. O.
Geraghty, R. K.	Hall, J. L.
Hanna, K.	Hill, J. D.
Ingerson, G. A.	Kerin, R. G.
Key, S. W.	Koutsantonis, T.
Lewis, I. P.	Olsen, J. W.
Oswald, J. K. G.	Rankine, J. M.
Rann, M. D.	Snelling, J. J.
Stevens, L.	Such, R. B.
Thompson, M. G.	White, P. L.
Wright, M. J.	

Majority of 15 for the noes.

Amendment thus negatived; Hon. M.K. Brindal's amendment to leave out clause 4 of schedule 2 carried.

The Hon. M.K. BRINDAL: I move:

Schedule 2—

New Part (comprising clause 2A), after clause 2 of Schedule 2—Insert new part as follows:

Part 2A—Amendment of Public and Environmental Health Act 1987

Amendment of Public and Environmental Health Act 1987

2A. The Public and Environmental Health Act 1987 is amended—

(a) by inserting after paragraph (Health Commission) of section 47(2) the following paragraph:

(hd) prescribes a code of conduct to be complied with in relation to the conduct of a sex business (within the meaning of the Prostitution (Regulation) Act 1999)—

(i) requiring the use of condoms or other devises used to minimise the risk of transmission of sexually transmissible diseases;

(ii) prohibiting prostitutes or clients infected with a sexually transmissible disease from engaging in conduct that has a substantial risk of infecting another with the disease;

(iii) relating to medical examinations of prostitutes or the treatment or management of prostitutes infected with a sexually transmissible disease;

(iv) containing other provisions designed to protect prostitutes and clients against the transmission of sexually transmissible disease;

(b) by striking out from section 47(2)(n) 'a division 6 fine' and substituting '$10 000'.

The Hon. DEAN BROWN: I oppose this amendment, and will explain why. About 18 months ago I was a member of the cabinet group that was asked to look at a range of options for prostitution and, of course, being Minister for Human Services, I was particularly interested in the health aspect. We took a great deal of advice from the Department of Human Services. The view that was put without being disputed was that the present Public and Environmental Health Act adequately dealt with the health aspects, whether or not they were prostitutes. The present provisions of the Public and Environmental Health Act dealt with cases where

they were known prostitutes, where someone had HIV and where the act itself was quite suitable in dealing with those cases.

Therefore it was decided that no matter what model was adopted there would be no specific reference and no specific section dealing with the health aspects, because they were already adequately covered. Then, a short time ago (and I was certainly of the belief that this was not being included in the draft bills), someone said, 'If we are going to have prostitution, at least we have to do a bit of window addressing and make out that we are addressing the health aspects. Therefore we must, if we are to have a bill on prostitution, have a section in that bill dealing with the health aspects.' So, a section was put into the original bill, and that section 17, which has now been deleted, set down a code of practice and allowed for inspectors to go in and inspect premises to ensure that the code of practice was adhered to.

The code of practice covers two areas: certain health aspects but also occupational health and safety aspects. Then, last night, apparently the police said that they did not wish to be involved in the health aspects, so this should now be inserted into a new clause, which is the one with which we are dealing here and which comes under the Public and Environmental Health Act. So, we now have a specific section dealing just with prostitution under the Public and Environmental Health Act.

I must say, first, that my department has looked at this in great detail and believes that this section is not required. I go further and give the views of both the Department of Human Services and of the senior legal officer of the Attorney-General's Department who works in the Department of Human Services specifically dealing with issues such as this. I deal first with the view from the senior legal officer of the Attorney-General's Department, who states:

> We do not think the first part of the draft amendment that refers to an authorised monitoring function (see clause 2A(a) to (c) inclusive of schedule 2, part 2A [which is what we are currently dealing with] is necessary, given the powers already available under section 38 of the Public and Environmental Health Act. Subject to your comments, we will recommend its removal from the draft.

So, the senior legal officer of the Attorney-General's Department, working in the Department of Human Services, recommends the removal of this section. Late this afternoon, I received advice from Professor Brendon Kearney, Executive Director of Statewide Division. It is appropriate that I read part of that advice to the House.

> In relation to the first part of the amendment that refers to an authorised monitoring function (clause 2A(a) to (c) inclusive of schedule 2 part 2A) the department agrees with the view that this section is not necessary, given the powers that are available under section 38 of the Public and Environmental Health Act as well as those powers available under section 36 of the same act. It should be noted that there is a further rationale for not including this amendment.
>
> Section 38 refers to authorised officers who may be authorised by the minister (previously the Health Commission) or by local government. These authorised officers are required to have qualifications approved by the minister, such as the Bachelor of Applied Science (Environmental Health).
>
> This qualification may not be considered an appropriate qualification for monitoring a code of conduct to be complied with in relation to the conduct of a sex business. The inclusion of this section may inadvertently include all officers authorised under section 38. The inclusion of this amendment is therefore seen as neither necessary nor appropriate as it removes the capacity to determine who should be deemed as an authorised officer for the purpose of monitoring the code of conduct in relation to the conduct of a sex business.

In fact, the officers authorised under section 38 of the Public and Environmental Health Act cover a whole range of public health officers throughout the state, working with local government. They have enormous powers. They have powers of breaking and entering a facility; they have powers of photographing, and everything else. One would have to ask whether that is an appropriate authorisation under this area of prostitution. I do not think it is.

My concern is this: that all the expert advice we sought in preparing the original draft bills, for all four of the bills, recommended no specific inclusion of a health clause, and I had assumed that was the case throughout. In fact, only yesterday I asked some key members of parliament who were involved in this, 'Am I right that there is still no specific provision for health?' and I was told 'Yes.' Then late yesterday, I understand, this amendment that is now being supported was put on the table.

That suddenly brings into the Public and Environmental Health Act a whole new section relating specifically to prostitution. I just think that is absolutely inappropriate; my officers think it is inappropriate; and the legal staff of the Attorney-General's Department also think that it is inappropriate. As we heard in earlier debate this evening, the former Minister for Health (the member for Adelaide) highlighted the fact that there is a very high standard of health care within the prostitution area, and that the present provisions of the Public and Environmental Health Act had achieved those high standards.

All the evidence is that that is so. Therefore, I must strongly oppose the inclusion of this section. We have already knocked out section 17 and I supported that, because that gave a power to the police to be the health inspectors, to do the monitoring, and I do not think that that is appropriate. I believe that it is inappropriate that there be a specific provision now under the Public and Environmental Health Act to cover prostitution.

All I can say is that no-one has yet put up one ounce of evidence to counter what must be seen as professional judgment from a large number of people, some of the best public and environmental health people in the world, in fact (and that is undisputed), who have looked at this case and argued that this is how it should be handled here in South Australia. I must give this House the facts as given to me by those with the authority, the knowledge and the understanding. I plead with members to support that stance.

The Hon. M.K. BRINDAL: I thank the minister for his contribution and make the following comments. As I understand it, and as I suspect other members understood it, the minister was referring to authorised officers. It is true, I am told, that in an earlier draft of this bill there was a section relating to authorised officers that was circularised to officers within the minister's department. I am given to understand that that section was removed and is not in this current amendment.

The amendment before us does not mention authorised health officers: it was simply in an earlier draft and has been removed. So, any debate on authorised health officers is not part of what we are talking about here. It is part of something that existed before and simply does not exist because it has never been tabled in this House.

The second point is that, whilst I appreciate what the minister is saying about his officers and the advice that he is given from people whom I and, I am sure, this whole House believes are highly competent, it is for this House to make a decision this evening about what it wants in the bill. Policy

is made by the parliament of the day and it is for this House to decide what it wants to do.

I would point out to members that the amendment prescribes the code of conduct to be complied with in relation to the conduct of the sex business. Under the Public and Environmental Health Act it actually allows a government and officers within a government to prescribe regulations. The regulations are related to things such as:

1. Requiring the use of condoms or other devices used to minimise the risk of transmission of sexually transmissible disease.

2. Prohibiting prostitutes or clients infected with a sexually transmissible disease from engaging in conduct that has a substantial risk of infecting another with the disease.

3. Relating to medical examination of prostitutes or the treatment of management of prostitutes infected with a sexually transmissible disease; and

4. Containing other provisions designed to protect prostitutes and clients against the transmission of a sexually transmissible disease.

This puts into an act the power for a government agency to regulate for health matters related to an industry that this House is about to decide is a legal industry. It is true that this and previous governments of different persuasions have a very good record in this regard, because one of the perverse things about what has happened over the past two decades is that, whilst brothel prostitution has in this state been illegal, there are some very good clinics in Adelaide run by the government that have looked after health requirements and matters related to sexually transmissible diseases.

It is a weird thing. The industry was illegal but, acknowledging that it existed, we saw that sexually transmitted disease was minimised. It was almost a nudge nudge, wink wink sort of thing. It was there and it worked and there were no rules about it, because you cannot make rules related to how you govern an illegal industry or look after the health of workers in an illegal industry. All this does is move away from authorised officers and puts into the act the power for relevant officers—

Mr Atkinson: Who are they?

The Hon. M.K. BRINDAL: People in the Health Commission—to develop regulations related to this matter. If the power to make a regulation for someone's health does not belong in the Public and Environmental Health Act, I do not know which other act you could put it in. It is a health matter: only health professionals can devise these sorts of regulations. No-one else can.

If the power to make regulations for this industry, for the health care of workers in this industry, does not belong in the Public and Environmental Health Act and with the minister's department, I would like to know where it does belong.

The Hon. DEAN BROWN: The minister did not listen to the point I made. That power already exists under the Public and Environmental Health Act. For many years, we have used that power effectively and maintained a high standard even amongst illegal prostitutes in the state. As minister, I have been informed of a number of specific cases where judgments have been made. The minister is trying to set up a different type of practice under the existing Public and Environmental Health Act. We do not believe that is an appropriate practice. We think that the existing practice which has a proven track record is the appropriate way of doing it.

At the end of the day, I can only take advice from the people who are the specialists in the area of public and environmental health. I took that advice today, and it was to leave the Public and Environmental Health Act as it is. On the other hand, against my argument there is no professional judgment or advice whatsoever. I think this compelling argument from the public and environmental health staff supports the case that I put to the committee on their behalf. I urge members to support it, otherwise it is only window dressing—and we think it is inappropriate window dressing. That is a very telling point.

Some will try to infer that, because these new sections are going into the Public and Environmental Health Act, there will be a level of certainty in terms of the prevention of disease transmission. Everyone assumed that because we tested people before they donated blood it was impossible for someone to contract HIV from a blood transfusion. The facts are that there are windows of opportunity and that the tests do not always pick up someone who is HIV positive. There was the tragic case last year of a young Victorian girl, the daughter of a doctor, who contracted HIV from a blood transfusion.

The advice given to me is that the present practices have worked very effectively, so stop trying to create a false impression that we have suddenly got a new, safe power which did not exist before and which will provide a new level of safety. That is not the case. I urge members to oppose this, and I do so by saying that this is the only evidence that has been presented to the committee tonight, and I believe it is compelling.

Mr WILLIAMS: I say, 'Hear, hear!' to the comments of the Minister for Health. One of the problems of this bill is that it purported to be one thing but it has turned out to be something quite different. I agree with the Minister for Health's comments. I think this bill is a sop for a few consciences and that it will be successful. However, at the end of the day, they will not achieve any of the things which they set out to achieve and which they told the public of South Australia they would achieve. One of those things was that legalising and regulating prostitution in South Australia would have an effect on health issues within the industry. That is a nonsense.

Under this code of practice the use of condoms is required. I always thought that, if you passed a law and there was a chance that that law would not be adhered to by people who would not want to adhere to it, it was a ridiculous law if you could not police it. This would be a ridiculous code of practice because there is no way of policing it.

As the minister just said, it gives false hope to people about sexually transmitted diseases. We know that the incubation period for many of these diseases can run into many months and that health checks will give negative results whilst people are contagious and can pass on the disease. It is a nonsense and, it gives the wrong impression. I believe that it is poor law making for all the reasons cited by the Minister for Health. It would be remiss of us to try to provide this sop to a few consciences in this parliament and put a poor piece of legislation on the statute books.

The Hon. M.K. BRINDAL: I will comment on what the member for MacKillop said. The fact is that this code of practice requires the use of condoms. The question has been asked during previous debates: how do you police that? The ACT experience is that it is eminently policeable. We are changing the law: an industry which yesterday was illegal will tomorrow be legal. I am told that there are people who visit prostitutes habitually who offer to pay large amounts of money—sometimes up to double the price—for sex without

a condom. They are so anxious to have a service without a condom that, if the worker says no, they go to another worker, and that worker says no.

In the context of a legal industry where women care about and want to look after their health and the health of other workers—and that is all they have because once they contract a disease they are not employable—they want condoms to be used and they insist on that.

An honourable member interjecting:

The Hon. M.K. BRINDAL: I am answering the member for MacKillop's point that this is not policeable. If a man asks for a service without a condom in a legal industry, the prostitute is able to contact the relevant authority and say, 'X visited me and tried to solicit sex without a condom.' I am told in the ACT that, upon the receipt of two or three such complaints from different prostitutes—because that act is repeated by the same person over and over—

Mr Atkinson: What happens to that person?

The Hon. M.K. BRINDAL: That person is prosecuted, because two or three prostitutes will bear witness to the fact that he tried to solicit sex without a condom.

Mr Atkinson: Under which law?

The Hon. M.K. BRINDAL: I am answering the member for MacKillop's allegation that such a code of conduct is unpoliceable. The ACT practice is that it is policeable because the women themselves ensure that it is policed. They look after their own health. So, let us talk some sense. Regarding the matter of STDs, there are windows of opportunity and there is no safe sex, that is true, but I fail to see how a code of practice—

An honourable member interjecting:

The CHAIRMAN: Order!

The Hon. M.K. BRINDAL: It is true that there is no safe sex without the use of prophylactics if you are going to change partners, but the fact is that having a code of conduct tucked away in a bill is hardly an inducement to riotous and licentious behaviour with everybody rushing around doing whatever they want simply because we make this provision. I do not understand the comment of the member for MacKillop that this is a sop when the minister's argument is that we should not have it because it is already there. You cannot have it both ways. The minister says that we should not have it because it is already there. The member for MacKillop says it is only put in as window dressing. If it is there and it is working, it is working. You cannot have it both ways.

The minister says that he has had advice from his officers. I did not present this amendment. I did not ask for this amendment. There are people who have worked on this bill—competent, efficient, professional people have worked on this bill, and they presented me with this. The minister says that his officers have a contrary opinion. I believe that I am duty bound—as the minister is duty bound—to represent honestly the good work and endeavour of those who have sought to bring this bill in the best form possible before this House. Traditionally these matters are resolved by ministers, including me, saying, 'As this is a matter which needs clarification, let it be resolved between the houses.' I am quite prepared to let the officers between the houses resolve this matter.

Mr ATKINSON: As members would know, I served on the parliamentary Social Development Committee inquiry into prostitution.

An honourable member interjecting:

Mr ATKINSON: Yes; and we looked into the question of sexually transmitted diseases. Over the years, when prostitution has been debated in South Australia, it has been common for the Festival of Light and some members of the Christian churches to argue against any change in the prostitution law on the basis that there was a danger that this would lead to an increased incidence of sexually transmitted diseases. All the evidence to the Social Development Committee was that this was not true. Indeed, a study was done by a group in Melbourne of the sexual health of prostitutes, comparing it to nurses and a group of university students, and prostitutes came out with fewer sexually transmitted diseases. It is believed that if a prostitute contracts a sexually transmitted disease the chances are that it has been contracted from her boyfriend rather than from clients.

I am supporting the Minister for Human Services. The amendment being moved by the Minister for Water Resources seeks to perpetuate the idea that somehow prostitutes are associated with an epidemic of sexually transmitted diseases. That is just wrong. That amendment perpetuates that idea, and those members who want to give the sex industry some credit for one of its successes ought to support the Minister for Human Services on this because his department is well across such problem as there is. They have all the authority they need and I think the Minister for Human Services is right to say that this amendment is window dressing. I am not agreeing with the member for MacKillop's remarks about condoms, and I ask the committee to leave them aside in its consideration of the merits of the argument as between the two ministers.

Mr WILLIAMS: The Minister for Water Resources spoke about the ACT experience and said that someone could be subject to a charge if they went around trying to procure sex without a condom from people working in the sex industry. Can the minister tell me what they were charged with and to which clause I should refer in the bill so that I can see what they would be charged with? The minister said that they would be charged on the strength of two or three complaints laid against them. How does the law of evidence work in the subsequent court hearing in relation to prosecuting that charge?

The Hon. M.K. BRINDAL: There is no clause in this bill that makes that specific provision. The member asserted in his contribution to the debate that such a matter was not policeable. I merely said to the member for MacKillop that it is policeable. I believe that regulations can carry penalties and expiation fees and things such as that. The establishment of this type of code would allow the promulgation of regulations which would enable a penalty that would allow the prosecution of this matter. They are not here, but they could be here were the Minister for Human Services' officers minded to do so, to act in this matter.

As for how the matter is prosecuted, I do not know, but there are enough lawyers on both sides of this House if the member for MacKillop later wants to ask them how it is prosecuted—and they can probably answer the question. Normally, if two or three people or four or five people, or however many people, actually see someone doing something that is wrong, they are called into a court and the judge listens to the evidence of those people, weighs the matter of fact, weighs the evidence to the contrary and makes a decision. The fact that four or five people might assert something and one person asserts something else is the general commerce of our courts.

Mr LEWIS: I do not know where the provisions are in the Public and Environmental Health Act that will enable us

to do what the Minister for Human Services suggests is possible. I have been looking for them. I am of a mind to believe him, but I am not going to sit down and ignore what I cannot discover. If it is not there, it is not there; if it is there, it should be identified as to how the power to which the Minister for Human Services referred can be exercised. I ask in the first instance then the Minister for Human Services to please identify for me the powers to which he was referring, which are provided in the Public and Environmental Health Act and which will enable appropriate inspection. If there is an offence, I want him to identify what the offence is and how prosecutions will be brought against the offenders.

Secondly, the argument in relation to the evidence that was supposed to have been given to the Social Development Committee, to which the member for Spence referred, defies logic. If you are promiscuous, the prospects of your contracting a sexually transmitted disease are enormously increased. Just because you get paid to be promiscuous does not reduce that risk: it has no connection to it. For the member for Spence and anyone else to argue against the member for MacKillop on the basis that some specious study in the ACT, probably on a very limited database—if it was done at all—found that there was less disease, indeed no disease, transmitted between clients and prostitutes in the ACT, I point out that if, indeed, a prostitute in the ACT got infected—I think I am accurate in recalling that the member for Spence said the committee was told that she probably got it from her boyfriend—that means either that she had a raft of boyfriends moving around—freebies on the side—or, alternatively, the boyfriend had been moving around. I do not know whether he pays for it, but he must be promiscuous to have contracted it. The fact remains that if you are monogamous you do not contract sexually transmitted diseases by engaging in sexual activity.

If you are promiscuous, you do; the risks are enormously high and they are proportional to the frequency and number of occasions on which you engage in that sort of sexual activity. Anyone who says anything to the contrary defies logic; it has to be a nice, hot, steamy pile of masculine bovine excrement. I want to understand how, if we were to accept the Minister for Water Resources' proposals to amendment the Public and Environmental Health Act by inserting something in there (and that is not a Freudian slip) which prescribes a code of conduct, as the member for MacKillop said, if you do not fit fibre optic cameras into the orifice of the body, whether it is the mouth, the anus or the vagina, you will never know.

An honourable member interjecting:

Mr LEWIS: No, I am just telling you: you cannot prove it. Presumably the condom has to be sound; lopping the top off and sliding it on and rolling it back will not solve anything. Even though the law does not provide that it has to be sound, clearly it would need to be. To prosecute an offender, you would have to prove that it had not been used or that it was unsound. If the Minister for Water Resources wishes me and other members to believe that this is more than window-dressing, I would like him to convince me how we can realistically go about policing it. You cannot, so leave it alone; do not pretend that something is being done to secure the public interest in the matter if that cannot be done. I am open to suggestion as to how it can be done, but the video camera surveillance and all that stuff is just nonsense; it will not work. There has to be some detection device—

Members interjecting:

Mr LEWIS: It has to be hole proof; I did not want to bring socks into this, but all the same I have tried to be plain about it. I think what we have is a hell of a mess and that we will live to rue the day we ever did what we have done tonight. As a society we needed a cap on pokies (and this legislation gives a whole new meaning to the word 'pokies'), and this particular piece of it is a real gamble, whichever way you go. As a law maker you will not achieve anything, and the odds are that you are wasting your time and the paper on which you print the words.

To reiterate, if the Minister for Human Services can tell me under what provision in the Public and Environmental Health Act a power exists to inspect and police what is going on, I will be gratified to understand that. On the other side, the Minister for Water Resources could explain how the inspection will work, anyhow. Perhaps the Minister for Human Services will have an answer to that, too.

The Hon. DEAN BROWN: The powers under the Public and Environmental Health Act are contained in part 4 thereof. They are very extensive; I will not go through all the details, but they are contained in sections 30 through to 37, and some further powers that would be used are contained under part 5 ('Miscellaneous'), section 38 and subsequent sections. So, there are very extensive powers there. The honourable member also asked about the actual fines. The fine varies with the specific nature of the offence, but they are also listed under the act. Part 4 is the main area, together with part 5.

Mr LEWIS: Will the Minister for Water Resources help me to understand?

Mr Conlon interjecting:

The CHAIRMAN: Order!

Mr LEWIS: If the member for Elder would like to interject, I would be pleased if he sat in his place so that I could formally respond. I want to know what insight the Minister for Water Resources can provide for me—literally—as to how we can check up on whether or not the code of conduct that he proposes to include in here is being observed.

The Hon. M.K. BRINDAL: I find it a difficult and perplexing question, because on the one hand several members have said, 'Well, why should we do this if, as the Minister for Human Services says, this is window-dressing and the power already exists?' So, on the one hand we are being asked not to do it because the power already exists, and I accept that if the minister believes that the power exists the minister also believes that it is possible to do something, because he would not be arguing that the power exists if he did not have the power to do something. So, if the minister argues that the power exists and he has enough power to be able to do something, then he simply has—

An honourable member interjecting:

The Hon. M.K. BRINDAL: No, he has the power to do something, and something can be achieved. He is arguing that this is window-dressing and is therefore unnecessary. He is not arguing, and neither am I arguing, that it is unnecessary to have a power to do something. We are both arguing that we should have a power to do something. If the member for Hammond is asking what insight I have into how we will do something, I do not come into this chamber pretending to have all insights or all knowledge.

I explained to the member for Hammond previously that, while there is a variance between the Minister for Human Services and me, I move this amendment in its present form because competent officers have prepared this amendment and put it before this committee as a right thing to do in the context of this debate. They have convinced me of that; they

have not said exactly how they believe it should be policed, but I accept the bona fides that there is a way in which it can be policed and we can at least try.

Every session we bring law into this place which we hope will work, will be enforceable and can be policed. Sometimes we succeed and sometimes we fail, but our endeavour is to pass good law which we hope we can implement. That is what I believe we are presenting here. It may not in the end be entirely possible to do all this, but we can try.

Mr WILLIAMS: I think the Minister for Water Resources is getting confused with promoting this measure. It is my understanding that the Minister for Human Services told the committee that, under the Public and Environmental Health Act, if he and his advisers deem that it should be done, he already has the powers to do it. But the Minister for Water Resources is proposing here that that act be amended to prescribe that he should do it—not that he have the power to do it if that were seen as good public policy, but that it be prescribed that it should happen.

Members will find that that is the subtle difference between what the Minister for Human Services has been trying to say to the committee and what the Minister for Water Resources is saying. I certainly accept the Minister for Human Services' statement that the powers are available and, again, I question why. The only plausible answer, as I said, is either a sop to some people's conscience or some window-dressing.

Mr LEWIS: Let us deal with the Public and Environmental Health Act matter first. Whereas I have noted that sections 30 through to 38 do have enormous powers, none deals with the matter of explicit safe sex. They do have strong powers where a person, who is suspected of having some transmissible notifiable disease, can be compulsorily examined by medical officers, can be put in quarantine and detained. Section 32(1)(6) provides:

> A person may be detained for more than six months on the authorisation of a Supreme Court judge.

A power is already there to do that sort of thing. So, if you have got yourself a dose of some sort of terrible disease as a result of being involved in providing sexual services to a client, you can be taken out for more than six months by order of a Supreme Court judge, but up to six months by seeing only a doctor. You do not even need that: 'A person may not be held in detention under subsection (1) for more than 72 hours unless the Commissioner applies to a magistrate for an extension of the period and the magistrate, after considering any representations made by or on behalf of the person under detention, extends the period of detention.' I have read all that but there is nothing in there about condoms and there is nothing in there about safe sex. It provides:

> A person infected with disease must prevent transmission to others. A person infected with a controlled notifiable disease shall take all reasonable measures to prevent transmission of a disease to others.

That is all there. What I was saying to the Minister for Human Services was that the powers that the Minister for Water Resources wants to move are already there. Well, I suppose they are in the general context, in the major set of information, but they do not explicitly require anyone to engage in a code of conduct when they are in the business of providing sexual services. The Minister for Water Resources cannot argue that the power is there and therefore it must be possible for them to inspect.

There is no power there for the inspectors under the Public and Environmental Health Act to inspect sex acts in any explicit way. They have enormous powers to simply take people out and put them aside—lock them up in a little cubicle, or whatever—where they are safe and not likely to transmit the disease to any other person. As I understand it, the Minister for Human Services is in fact not saying that this explicit use of a condom is provided for and that an inspection is required to discover whether or not an offence has occurred and that there is some penalty. He is just saying, 'We can deal with it; we will fix them up.'

The Minister for Water Resources, on the other hand, is saying that he wants to put that in there. If he does, then to convince me it ought to go in there he needs to be able to say how the inspection will be undertaken and what the penalty will be if an offence is committed and proved.

The Hon. M.K. BRINDAL: I thank the member for Hammond for his contribution. I have said all that I can say on this matter.

Members interjecting:

Mr SCALZI: I know that it is late. There are a few stereotypes in this argument. I want to put on the record, as did the member for Spence, that the stereotype that somehow prostitutes are the carriers of disease, etc., in the community is false. The overwhelming evidence given to the Social Development Committee was that you are more likely to get a sexually transmitted disease outside the prostitution profession than you are by going to prostitutes: that is a fact. If that is the case, the Minister for Human Services is correct, because the health aspect of prostitution is already self-regulating.

Mr Foley: Sit down.

Mr SCALZI: I have to listen to you every day.

Mr Conlon: The difference, Joe, is that he is interesting.

Mr SCALZI: That is a matter of opinion.

Members interjecting:

Mr SCALZI: Members opposite will have to put up with me for a little longer. The reality is that that is stereotype and it is offensive to the people in the industry to say that there is a serious problem with sexually transmitted diseases. The authorities in South Australia and, indeed, Australia have been very successful—

Mr Conlon interjecting:

The CHAIRMAN: Order!

Mr Conlon interjecting:

The CHAIRMAN: Order

Mr SCALZI: It is well known that the authorities in South Australia and, indeed, Australia have succeeded in monitoring and keeping under control many sexually transmitted diseases. That is not the reason why I and other members oppose legalisation. That is a stereotype.

South Australia's health department has dealt with those problems very well. The Minister for Water Resources by bringing in this amendment is giving credence to the stereotype but he and the supporters of the legalisation of prostitution want to somehow tear it down. So, on the one hand, they are saying there is not a problem, as I do—

Mr Foley: You are not making sense, Joe.

Mr SCALZI: Do you want me to slow down and I will come back to you? The reality is not just window-dressing; the supporters are seeing this as an opportunity to continue with the stereotype in order to placate the community, that somehow, including these provisions, we will provide a safer sex industry. The reality is that it is window-dressing, and it is seen as a window of opportunity to confirm that stereotype.

The committee divided on the amendment:

AYES (28)

Armitage, M. H.	Bedford, F. E.

AYES (cont.)

Brindal, M. K. (teller)	Brokenshire, R. L.
Buckby, M. R.	Ciccarello, V.
Clarke, R. D.	Conlon, P. F.
De Laine, M. R.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Hall, J. L.	Hanna, K.
Hill, J. D.	Hurley, A. K.
Ingerson, G. A.	Kerin, R. G.
Key, S. W.	Kotz, D. C.
Olsen, J. W.	Rankine, J. M.
Rann, M. D.	Stevens, L.
Such, R. B.	Thompson, M. G.
White, P. L.	Wright, M. J.

NOES (17)

Atkinson, M. J.	Brown, D. C. (teller)
Condous, S. G.	Gunn, G. M.
Hamilton-Smith, M. L.	Koutsantonis, T.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Oswald, J. K. G.
Penfold, E. M.	Scalzi, G.
Snelling, J. J.	Venning, I. H.
Williams, M. R.	

Majority of 11 for the ayes.

Amendment carried; scheduled as amended passed.

Schedule 2—reconsidered.

The Hon. M.K. BRINDAL: I move:

Schedule 2, page 12, amendments to the Criminal Law Consolidation Act be amended so as to leave out new paragraphs (a)(i) and (a)(ii).

The Hon. G.M. GUNN: I place on the public record my strong opposition to this proposal. The committee has already agreed to bring in some very severe penalties for outrageous behaviour. I am happy to support the second reading and certain provisions of this bill. However, there needs to be some clear and precise penalties clearly visible to all concerned so that they know exactly what will happen to them if they contravene the provisions of this parliament. The step we are taking now is a step backwards. Therefore, I make it clear that I do not concur with the provision, and I may consider my position on the third reading.

Mr LEWIS: There are two things, sir. Just two minutes ago, after the division was called, you put the question that schedule 2 be agreed to, and the ayes had it. Now, as I understand it, you are saying that the Minister for Water Resources wants to recommit a section of schedule 2 that was voted on just a short while ago, an hour or so ago. Is that so?

The CHAIRMAN: That is so.

Mr LEWIS: Then what was the motion moved by the Minister for Water Resources?

The CHAIRMAN: That schedule 2 be reconsidered.

Mr LEWIS: I didn't hear that.

The CHAIRMAN: I am sorry but, with the noise that was going on, I am not surprised. However, the chair did say it.

Mr LEWIS: I heard him say something entirely different. I heard him say that he wanted to delete paragraphs (a)(i) and (a)(ii).

The CHAIRMAN: The member for Hammond has now moved on to the amendment to schedule 2 moved by the minister after the decision to reconsider schedule 2 had been taken.

Mr LEWIS: So, at no time, even though we vote on a provision and you, Mr Chairman, proclaim the vote, is that secure. We can go back and revisit clause 4 in a minute; is that what you are saying? I can be here until Monday morning if that is what the minister wants. I will go back and move all the clauses again.

The CHAIRMAN: If the motion is moved and agreed to by the committee, that is the action that will be taken.

The Hon. M.K. BRINDAL: I regret putting the committee to this inconvenience, but the fact is that in the confusion in the early debate I misunderstood the intention of the committee. Subsequent to that debate, those with whom I took counsel told me quite clearly that it had not been their intention to accept mandatory sentencing as part of this provision. I regret that the member for Stuart has a difference of opinion with me and others in respect of this provision. I acknowledge the absolute help the member for Stuart has given on all clauses of the bill; he really has been a tower of strength.

Members interjecting:

The Hon. M.K. BRINDAL: He actually has. I know, and I think every member in this House knows, that the member for Stuart has a very strong conviction on the matter of mandatory sentencing, of which this is a part. I regret that he and I differ on this matter.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: I do. The member for Stuart and I have had some classic blues in the past, but we always managed to get past them. I recommit the bill because I am duty bound, to those who have supported me in this debate, to support them in this matter.

Mr LEWIS: It was on this general proposition that procedural chicanery was undertaken once before by Steve Baker (when he was Treasurer and Deputy Premier) when he was in this House in the last parliament. I sought to have questions relating to the effects on victims of prostitution investigated by the Social Development Committee. The measure passed on the voices, and then hours later he came into the House and moved for it to be recommitted because he said that several members wanted to speak on the matter and had not been able to do so. That turned out also to be a nice, hot, steamy pile of masculine bovine excrement. No-one spoke on that: no-one.

In this instance again, it seems to me that the minister does not even want to say what he is repealing, trying to repeal, trying to recommit or trying to get away with. To my mind, that does not do anything to make the public respect us any more, because we do not pay attention to what is being debated before the chair. I know that occasionally one can make mistakes, but for him to now say, after he has spoken to the member for Spence and a couple of other people who are not members of this place but are sitting in here beside him, that he did not mean it to be passed and wants it to be recommitted, illustrates what I think of most of the work that he has done in recent times.

More particularly, though, let me make it plain: if this measure is recommitted and if, on recommittal, it is defeated, I promise members that I will find such resources as necessary to match the ALP's scurrilous activities during the last election campaign of sending out postcards in different electorates saying that Liberal members were off overseas. I will send out postcards to the limit of the resources available to me—anything up to $500 000 I am prepared to commit to that—to ensure that the Labor Party's constituents understand just how unprincipled they are.

As I said at the time they were being debated, sections 66, 67 and 68 are about sexual slavery, recruiting children to

prostitution and deceptively recruiting anyone else. When these measures were before the House in the last year or so, it was pointed out, when the government voted to reduce those penalties, that there would be an opportunity to revisit them during this debate. The Government Whip, the member for Goyder, acknowledges that point. All members of the Liberal Party acknowledge that point.

That commitment was given in the party room. If the legislation finds passage through this place, people will think less of recruiting others to prostitution, be they minors or adults who are tricked into it through intoxication or drug addiction; and worse still, sexual slavery of the kind to which I drew the attention of the committee at the time. I think it is absolutely outrageous that the committee will not vote to put in prison anyone who recruits children to prostitution, because after that experience their life chances will be ruined.

People who would bring someone else into sexual slavery are equally heinous. As far as I am concerned, there needs to be a straight statement that this means prison—go away, do not do it. If you do, the consequences are very serious indeed. If we as the House of Assembly in this parliament do not have the guts to do that and say it tonight, the kind of things we have just incorporated as a code of conduct—wearing condoms while engaging in a commercial sex act with a sex service provider—are absolutely inane. It mocks completely the concern which is expressed by that earlier vote.

The Hon. M.K. BRINDAL: Given the time of night and the concurrence of most people with what I said about the member for Stuart, if I do not insist on proceeding with this amendment, faced with the proposition that somebody should face a mandatory life sentence, another place will deal with this matter and we will get a chance to deal with it when it comes back to us. I therefore seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Schedule 2 passed.

Title passed.

Long title.

The Hon. M.K. BRINDAL: I move:

After 'to amend' insert 'the Criminal Assets Confiscation Act 1996,';

After 'Industrial and Employee Relations Act 1994,' insert 'the Public and Environmental Health Act 1987,'.

Amendments carried; long title as amended passed.

The Hon. M.K. BRINDAL (Minister for Water Resources): I move:

That this bill be now read a third time.

I wish to put two things on the record, as the bill comes out of committee. It has been a long and arduous debate, but one for which I thank all members in this place. There are passions held on this issue and they are held equally by both sides.

I thank those who have supported this measure and who have passed this bill. I equally thank those who, in not supporting the bill, have at least tried to constrain this debate into some measure of reasonableness. I conclude by particularly acknowledging the contributions of the member for Elizabeth and the member for Coles, who have done a remarkable job discussing compromises and various things to do with this bill. This is a historic night for this parliament, and whether it be for good or not so good only time will tell, but that is the nature of all bills that deal with moral and conscience issues. At least this parliament can say it has done its best.

Mr VENNING (Schubert): I believe that we have witnessed the most extraordinary debate in this place for quite a long time; indeed, since that ill-fated poker machine debate in 1993, a debate that most members would now regret. How extraordinary it is that this debate bears more than a striking resemblance to that debate in 1993. The parliament legislated for something it thought the public wanted and would benefit the state. What is the reality? Massive public outcry as these electronic Daleks take over our community, bringing economic ruin to many people in our community. Public opinion says that we should remove them and I believe we should, but we all know that we cannot. A member for parliament was elected as a result of that legislation. Much the same can be said about this bill tonight.

Why are we doing it? The public has not said that it wants this and, like the poker machine bill, it will be difficult if not impossible to reverse it. This is just a further degradation of the moral standards in our community. I believe that we are now on the way—

The SPEAKER: Order! I draw the honourable member's attention to the fact that it is the third reading of the bill. Members can canvass the bill as it comes out of committee but they may not bring in new material or general debate. We are winding up the third reading stage.

Mr VENNING: I will refer directly to parts of the bill. This bill will now remove the stigma and the illegality of prostitution, so why should brothels not proliferate? How long will it be before we introduce a brothel capping bill, as we did with the pokies? How is it that this so-called newly respectable industry is treated differently from any other respectable industry in respect of the planning and development legislation? As I said earlier, why have we removed the involvement of local government in the planning process? Are we frightened that it will do what we do not have the guts to do? That is, give the people a say whether they want it or not.

The SPEAKER: Order! The chair has given the honourable member some latitude because it is the third reading and it has been a fairly emotional debate and a long day, but I ask the member to stick strictly to the rules of the third reading or I will have to bring him to a close.

Mr VENNING: I am not introducing any new material: I am speaking on what we have already debated, and that is local government involvement in this bill. There will be a big backlash from local government on this, and rightly so. Everyone knows what the planning and development rules involve. We have circumvented all that for the sake of this bill. So many members tonight want to wake up to themselves because what they have done will come back and bite them.

An honourable member interjecting:

Mr VENNING: I wish we were not even here. Why did we not declare these developments as category 3 developments, as was discussed tonight? We have not given the people the right to appeal these developments or to appeal a decision to allow a brothel in the vicinity of their homes and families. If I wanted to establish a disruptive industry, whether it be a noisy, dirty, smelly or just an unsightly industry, I would have to apply as a section 3 development, with full public consultation. Why not this? Why are we running away from full public consultation? Why is this different?

I am Chair of the Environment, Resources and Development Committee. We deal with all these matters all the time: they all come before us. Why have we made this bill differ-

ent? It is because we do not have the guts to say that it should be the same as everything else. We make different rules here. I am not running away from this. I am quite happy to circulate my speech in my electorate: I wonder how many members opposite will do that.

I think that what we have done this evening is a disgusting thing, because it is not right. Local government has said that it wants to be involved. It has said that clearly, as can be seen from the speech of the member for Newland—

The SPEAKER: Order! The member is now clearly starting to debate the matter. I ask him to return to the substance of the third reading.

Mr VENNING: I am just saying that local government wished to be involved, as was stated in an earlier contribution to the debate. I close by saying that I think it is a shameful situation tonight, and I do not believe it will bring any credit at all on this parliament. I question why the government had the carriage of this legislation when the majority of government members opposed it, and it was carried strongly by the Labor opposition, as happened in 1993 with the poker machines.

I am sorry that the Summary Offences (Prostitution) Amendment Bill failed. It did not involve a large majority: if three people had changed their mind, it would certainly have altered the result.

The SPEAKER: Order! The chair is getting concerned that the member is now starting absolutely to ignore the chair's directives.

Mr VENNING: I am sorry about that. I am also sorry for the people out there whom I feel we have let down. I apologise to the people of Schubert that we have a result that will not please the majority of them. I thank all those who have written to me expressing their opinions and their prayers on this matter. I also want to thank the church leaders who have contacted us, particularly Archbishop Leonard Faulkner and the Reverend Mike Semmler, as well as the members of the Festival of Light, who have hung in on the debate to the last.

Most important of all, I am happy that I have tried, although I lost, and I will take the decision. I will be pleased in the hours and weeks ahead that I at least have a conscience, and I will rest easily with what I have tried to do. I urge members to take this last opportunity to vote against the bill.

Mr LEWIS (Hammond): I share the general sentiments that have been expressed by the member for Schubert, although I will not go into the details of the people who have contacted me or explain my explicit regrets about the various aspects of the legislation one way or another. Notwithstanding the fact that I have done my very best to make the measure as acceptable as possible, even though it annoys me, I will still vote against the bill on the third reading.

The Hon. W.A. MATTHEW (Minister for Minerals and Energy): After a lengthy and at times somewhat robust debate, we now reach the gentle hour of almost 2.20 in the morning when it is time to make a decision on the final outcome of this legislation.

The decision facing the members assembled in this chamber is a fairly simple one: it is a decision between the status quo and the opportunity provided by this legislation. Members simply need to ask themselves whether they are satisfied that this legislation not only covers transactions between consenting adults but also ensures that our police force is better able to ensure that appropriate protection is provided to our community.

Members need also to ask themselves the question: does this legislation provide the police with powers that are better, or certainly not worse than, the equivalent powers that they presently have to ensure that a place which operates as a brothel does not utilise children for the gratification of paedophiles and to ensure that the police have the same or at least no worse powers to enter a place which is used as a brothel in order to make sure that it is not being used for the purpose of organised drug trafficking, or for the purpose of money laundering?

It is my contention that this bill does not provide our police force with that opportunity. It is my contention also that this bill reduces the present power of police. That is something on which I believe every member needs to reflect, in order to be satisfied in their mind that this bill provides our police with at least equivalent and certainly not reduced powers to protect our society. I sincerely hope that when members reflect on those aspects of the bill relating to policing and compare them with the powers that police presently have will see that this bill does not deliver us a better situation to the status quo, and therefore will appropriately reject it.

Mr WILLIAMS (MacKillop): I also speak against the third reading of this bill. We came here today—

An honourable member interjecting:

Mr WILLIAMS: Yesterday, indeed—with five proposals before us and we whittled them down to one. I think the community of South Australia expected us, as the previous speaker has just said, to come out with something which would be an improvement to our society, an improvement to the protection of our young and vulnerable people and an improvement to the health of the people in our society. I believe that we have achieved none of that. I believe we have taken away the rights of many people, not the least of which are those people who would like to have some say in a development application that will have a serious effect on them and their families and the way in which they and their children go about their business in their local community. It is a gross dereliction of the duty of this parliament not to give the citizens of this state the right to make those sort of decisions in their local communities.

It is my belief that the measure that we are about to vote on will do nothing to curtail this industry, which I think all of us would prefer did not occur in our society. It is indeed my belief that it will result in a proliferation of this industry. However, the thing that really disappoints me more than anything else is that I believe the proliferation in this industry will be outside these regulations. The proliferation will not be within the regulations that we are about to vote on—the regulated industry. Why will that be? Because there is a sector of our community which will continue in this industry for various reasons, and those reasons would have them act outside the law.

I will not hold the House up any longer: I recognise the hour and the length of time that it has taken to conduct this debate. In closing, I acknowledge the irony between this and what we did several days ago in attempting to put a cap on poker machine legislation; that is, that we recognised that poker machines were bad for our society and we sought to cap them. The irony of what we do here today is not lost on me.

The House divided on the third reading:

AYES (24)

Armitage, M. H.	Bedford, F. E.
Brindal, M. K. (teller)	Ciccarello, V.
Clarke, R. D.	Conlon, P. F.
De Laine, M. R.	Foley, K. O.
Geraghty, R. K.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L.
Hanna, K.	Hill, J. D.
Ingerson, G. A.	Key, S. W.
Penfold, E. M.	Rankine, J. M.
Rann, M. D.	Stevens, L.
Such, R. B.	Thompson, M. G.
White, P. L.	Wright, M. J.

NOES (21)

Atkinson, M. J.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Hurley, A. K.	Kerin, R. G.
Kotz, D. C.	Koutsantonis, T.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Olsen, J. W.
Scalzi, G.	Snelling, J. J.
Venning, I. H.	Williams, M. R. (teller)
Wotton, D. C.	

Majority of 3 for the ayes.

Third reading thus carried.

RACING (CONTROLLING AUTHORITIES) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

HIGHWAYS (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the House of Assembly's amendments without any amendment.

NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the bill with the amendments indicated by the schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Page 5, line 19 (clause 9)—After 'is amended' insert:

–

(a)

No. 2. Page 5 (clause 9)—After line 20 insert new paragraph as follows:

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) Where a fee fixed under subsection (1) is payable, or has been paid, the Director may, if he or she thinks fit, waive or refund the whole or part of the fee.

No. 3. Page 10, line 30 (clause 21)—Strike out 'subsection (1) to prove' and insert:

subsection (1)(a) to prove—

(a)

No. 4. Page 10 (clause 21)—After line 31 insert word and paragraph as follows:

or

(b) that the defendant acted reasonably to frighten the animal in order to protect himself or herself or another person or to protect—

(i) property comprising plants cultivated for commercial or other purposes or animals; or

(ii) property of any other kind.

No. 5. Page 11, line 2 (clause 23)—After 'is amended' insert:

–

(a) by inserting the following subsection after subsection (4):

(4a) A condition of a permit may require compliance with a specified code of practice, standard or other document as in force at a specified time or as in force from time to time.;

(b)

No. 6. Page 11—After line 23 insert new clause as follows:

Insertion of s. 70A

24A. The following section is inserted after section 70 of the principal Act:

Failure to comply with authority

70A. (1) The holder of an authority who contravenes or fails to comply with a limitation, restriction or condition of the authority is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

(2) In this section—

'authority' means a permit, permission or other authority granted by the Director or the Minister under this Act.

No. 7. Page 11—After line 33 insert new clause as follows:

Insertion of s. 73A

25A. The following section is inserted after section 73 of the principal Act:

Liability of vehicle owners and expiation of certain offences

73A. (1) In this section—

'owner', in relation to a vehicle, includes—

(a) a person registered or recorded as an owner of the vehicle under a law of this State or of the Commonwealth or another State or Territory of the Commonwealth; and

(b) a person to whom a trade plate, a permit or other authority has been issued under the Motor Vehicles Act 1959 or a similar law of the Commonwealth or another State or Territory of the Commonwealth, by virtue of which the vehicle is permitted to be driven on roads; and

(c) a person who has possession of the vehicle by virtue of the hire or bailment of the vehicle;

'prescribed offence' means an offence against a provision of this Act prescribed by regulation for the purposes of this definition;

'principal offender' means a person who has committed a prescribed offence.

(2) Without derogating from the liability of any other person, but subject to this section, if a vehicle is involved in a prescribed offence, the owner of the vehicle is guilty of an offence and liable to the same penalty as is prescribed for the principal offence and the expiation fee that is fixed for the principal offence applies in relation to an offence against this section.

(3) Where there are two or more owners of the same vehicle a prosecution for an offence against subsection (2) may be brought against one of the owners or against some or all of the owners jointly as co-defendants.

(4) The owner of a vehicle and the principal offender are not both liable through the operation of this section to be convicted of an offence arising out of the same circumstances, and consequently conviction of the owner exonerates the principal offender and conversely conviction of the principal offender exonerates the owner.

(5) An expiation notice or expiation reminder notice given under the Expiation of Offences Act 1996 to the owner of a vehicle for an alleged offence against this section involving the vehicle must be accompanied by a notice inviting the owner, if he or she was not the principal offender, to provide the person specified in the notice, within the period specified in the notice, with a statutory declaration—

(a) setting out the name and address of the principal offender; or

(b) if he or she had transferred ownership of the vehicle to another prior to the time of the alleged offence and, in the case of a motor vehicle defined by section 5(1) of the Road Traffic Act 1961, has complied with the Motor Vehicles Act 1959 in respect of the transfer—setting out details of the

transfer (including the name and address of the transferee).

(6) Before proceedings are commenced against the owner of a vehicle for an offence against this section involving the vehicle, the complainant must send the owner a notice—

(a) setting out particulars of the alleged prescribed offence; and

(b) inviting the owner, if he or she was not the principal offender, to provide the complainant, within 21 days of the date of the notice, with a statutory declaration setting out the matters referred to in subsection (5).

(7) Subsection (6) does not apply to—

(a) proceedings commenced where an owner has elected under the Expiation of Offences Act 1996 to be prosecuted for the offence; or

(b) proceedings commenced against an owner of a vehicle who has been named in a statutory declaration under this section as the principal offender.

(8) Where a person is found guilty of, or expiates, a prescribed offence or an offence against this section, neither that person nor any other person is liable to be found guilty of, or to expiate, an offence against this section or a prescribed offence in relation to the same incident.

(9) Subject to subsection (10), in proceedings against the owner of a vehicle for an offence against this section, it is a defence to prove—

(a) that, in consequence of some unlawful act, the vehicle was not in the possession or control of the owner at the time of the alleged prescribed offence; or

(b) that—

(i) the driver or operator of the vehicle was not the principal offender or one of the principal offenders; and

(ii) the owner does not know and cannot reasonably be expected to know the identity of the principal offender or of any one of the principal offenders; or

(c) that, at the time of the alleged prescribed offence, the vehicle was being used for a commercial purpose; or

(d) that the owner provided the complainant with a statutory declaration in accordance with an invitation under this section.

(10) The defence in subsection (9)(d) does not apply if it is proved that the owner made the declaration knowing it to be false in a material particular.

(11) If—

(a) an expiation notice is given to a person named as the alleged principal offender in a statutory declaration under this section; or

(b) proceedings are commenced against a person named as the alleged principal offender in such a statutory declaration,

the notice or summons, as the case may be, must be accompanied by a notice setting out particulars of the statutory declaration that named the person as the alleged principal offender.

(12) In proceedings against a person named in a statutory declaration under this section for the offence to which the declaration relates, it will be presumed, in the absence of proof to the contrary, that the person was the principal offender.

(13) In proceedings against the owner or the principal offender for an offence against this Act, an allegation in the complaint that a notice was given under this section on a specified day will be accepted as proof, in the absence of proof to the contrary, of the facts alleged.

(14) A vehicle will be taken to be involved in a prescribed offence for the purposes of subsection (2) if it was used in, or in connection with, the commission of the offence.

(15) Without limiting subsection (14), a vehicle will be taken to be used in connection with the commission of an offence if it is used to convey the principal offender or equipment, articles or other things used in the commission of the offence to the place where, or to the general area in which, the offence was committed.

No. 8. Page 12 (clause 28)—After line 8 insert new paragraph as follows:

(ab) by inserting the following subsection after subsection (2a):

(2b) A regulation may require compliance with a specified code of practice, standard or other document as in force at a specified time or as in force from time to time.

No. 9. Page 12—After line 13 insert new clause as follows:

Insertion of s. 81

28A. The following section is inserted after section 80 of the principal Act:

Codes of practice, etc.

81. Subject to this Act, where a code of practice, standard or other document is incorporated into or referred to in this Act, the regulations or a permit granted under this Act—

(a) a copy of the code, standard or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office determined by the Minister; and

(b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a copy of a document apparently certified by or on behalf of the Minister to be a true copy of the code, standard or other document.

Consideration in committee.

The Hon. I.F. EVANS: I move:

That the Legislative Council's amendments be agreed to.

Motion carried.

STATUTES AMENDMENT AND REPEAL (ATTORNEY-GENERAL'S PORTFOLIO) BILL

The Legislative Council agreed to amendment No. 1 with the amendment indicated in the following schedule, disagreed to amendment No.2 for the reason indicated by the following schedule, and made a necessary consequential amendment:

Schedule of the amendment made by the Legislative Council to the House of Assembly's amendment No. 1

House of Assembly's amendment No. 1—

New Clause, page 5—After line 16 insert new clause as follows:

Amendment of s. 7—Application for compensation

10A. Section 7 of the principal Act is amended by inserting after subsection (9) the following subsection:

(9aa) The court must not, however, make an order for compensation in favour of a victim if the injury to the victim occurred while the victim was engaged in behaviour constituting an offence against a person or property (or both) or was trespassing on land or premises with the intention of committing such an offence.

Legislative Council's amendment thereto—

That the Legislative Council agree with amendment No. 1 made by the House of Assembly with the following amendment:

Leave out new subclause (9aa) and insert:

(9aa) The court must not make an order for compensation in favour of a claimant if the court—

(a) is satisfied beyond reasonable doubt that the injury to the claimant occurred while the claimant was engaged in conduct constituting an indictable offence; and

(b) is satisfied on the balance of probabilities that the claimant's conduct contributed materially to the risk of injury to the claimant.

(9aab) Subsection (9aa) does not apply if the claimant has been acquitted of the offence.

(9aac) Despite subsection (9aa), the court may make an order for compensation in favour of a claimant if the court is of the opinion that in the circumstances of the particular claim failure to compensate would be unjust.

Amendment of s. 8—Proof and evidence

10B. Section 8 of the principal Act is amended by striking out from subsection (1) 'Subject to this section' and substituting 'Subject to this Act'.

Schedule of Amendment No. 2 made by the House of Assembly and disagreed to by the Legislative Council

House of Assembly's amendment No. 2—

New Clause, page 5—After line 32 insert new clause as follows:

Amendment of s. 11—Payment of compensation, etc. by the Attorney-General

11A. Section 11 of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) However, the Attorney-General must not make an ex gratia payment to a victim if the injury to the victim occurred while the victim was engaged in behaviour constituting an offence against a person or property (or both) or was trespassing on land or premises with the intention of committing such an offence.

Schedule of the Reason for disagreeing to Amendment No. 2

Because of the inappropriate policy directions.

Schedule of the necessary consequential amendment to the bill

Clause 2, page 4, line 9—Leave out "Parts 5 and 10" and insert: Section 11 and Part 10

Consideration in committee.

The Hon. I.F. EVANS: I move:

That the Legislative Council's amendment to amendment No.1 be agreed to; that amendment No.2 not be insisted on; and that the consequential amendment be agreed to.

Members might recall that in the debate on this bill there was reference to the Criminal Injuries Compensation Fund and there was a disagreement between the House of Assembly and the Legislative Council. I can report there have been discussions and I understand that agreement has now been reached on the amendments put forward in the another place.

I have earlier explained why the government did not agree with the amendments to the bill, which were previously added to the bill in this House. I will not repeat that explanation. The amendments that are the subject of this message would have the effect of precluding compensation in some cases to a victim of crime where he or she has been guilty of an indictable offence. The offence would have to be proved beyond reasonable doubt, that is, to the usual criminal standard. Also, the court must be satisfied that the offending materially increased the risk of the injury: merely coincidental offending would not be caught.

In this amendment, it is made clear that, if the victim is prosecuted and is acquitted of the offence, this preclusion will not apply, hence the case can be tried again in a civil court. The court will still have the power to award compensation even where the victim has been guilty of an offence if the court is of the opinion that, in the circumstances of that particular claim, failure to compensate would be unjust. Under this amendment, there will be no restriction on the Attorney-General's discretion in respect of ex gratia payments. Of course, the Attorney-General can always take into account the victim's criminal conduct, along with all other relevant considerations, in deciding whether the victim is deserving of such payment.

There are some consequential amendments necessary to provide for the application of the burdens of proof I have described and also to ensure that the provisions will not operate retrospectively. The government believes the amendments put forward by the Council should be agreed to. I do wish to thank the member for Spence for his cooperation in this matter.

Mr ATKINSON: For 3½ years the Liberal Party's Attorney-General of this state was happy to pay from the taxpayer-funded Criminal Injuries Compensation Fund compensation to people who became victims in the course of their own criminal conduct. Naturally, the vast majority of the public of South Australia who were aware of this situation were opposed to its continuing. The Attorney-General repeatedly refused to reform the law. He was forced to do so by an amendment moved by this House to the Statutes Amendment and Repeal (Attorney-General's Portfolio) Bill.

I thank the parliamentary Labor Party and the members for Hammond, Chaffey and Gordon for doing the right thing, supporting this amendment and forcing the Attorney-General to change the law to accord with public values. This has been a victory for the opposition and the Independents.

Motion carried.

RECREATIONAL GREENWAYS BILL

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No.1 Page 4(clause 3)-After line 15 insert the following definition:

'cycling' does not include the use of a motor cycle;

No.2 Page 7, line 10(clause 6)-After 'State' insert:

and in a newspaper circulating in the area in which it is proposed to establish the greenway

No.3 Page 9(clause 11)-After line 16 insert new subclause as follows:

(6) The following provisions apply in relation to a greenway over land that forms part of a pastoral lease but is not a public access route within the meaning of section 45 of the Pastoral Land Management and Conservation Act 1989:

(a) a person is not entitled to have access to or use the greenway without first giving the lessee oral or written notice of his or her intention to enter and use the greenway; and

(b) a person is not entitled to travel on the greenway by means of a horse (even if the purpose of the greenway is recreational horse riding) without the consent of the Minister for the time being administering the Pastoral Land Management and Conservation Act 1989 or the lessee.

Consideration in committee.

The Hon. I.F. EVANS: I move:

That the Legislative Council's amendments be agreed to.

Two amendments that were discussed in debate in the House have been moved in the Legislative Council, which recommends that the House of Assembly agree thereto. One related to a matter raised by member for the Hammond requiring an amendment to the bill which provided for advertisements in a local paper in relation to a greenway. That provision is now included. Also, the member for Stuart required amendments to ensure that this bill reflects the same requirements as in the Pastoral Act in relation to access. This bill now reflects the member for Stuart's wishes. Therefore, I suggest that the committee agree to the amendments.

Ms RANKINE: During the debate on the greenways bill, it was very late at night and the minister approached me in relation to queries I had with respect to the bill. He suggested that if I put my questions in my second reading speech he would provide me with answers while the bill was transmitted between the houses. I am concerned that that undertaking, which I took in good faith, has not been honoured and my questions remain unanswered.

I am also concerned about the question I asked today with respect to the announcement about the Oz Trail site. The minister made the announcement and had it published in the local media but, amazingly, had not even secured that site. As a result of that amazing incompetence, the minister has used the tactic of bullying to try to cover up that incompetence. I made that undertaking with the minister in good faith and I

am extremely disappointed. It is a good lesson for me and it is a good lesson to other members in this chamber when dealing with the minister.

The Hon. I.F. EVANS: With respect to the undertaking that I would provide the member with answers, I indicate that I will provide her with answers. To clarify the matter that she has raised twice now—once in committee and once in question time today—if she looks carefully at *Hansard* as to what she asked me today in question time, she will see that she answered her own question in the explanation. I am taking up the issue with the officer in my department who is handling that project.

Motion carried.

ADJOURNMENT DEBATE

The Hon. R.G. KERIN (Deputy Premier): I move:

That the House at its rising adjourn until Tuesday 15 August at 2 p.m.

While we await a brief sitting of the other place I will take the opportunity of thanking a few people. First, Mr Speaker, thank you for your forbearance; once again during the session you have shown enormous patience many times, and we all appreciate that. We do test you—some more than others, I might add. I also thank your able Deputy Speaker, the Chairman of Committees, who this evening had a particularly difficult job and came out of it extremely well. The committee debate on prostitution tonight was not easy to chair, and the Chairman did a wonderful job. I thank the clerk and all the staff of the House and centre hall for the assistance they give to us all. I also thank Ray the policeman and all those involved in looking after our needs in the House. I thank also the Hansard staff, who tidy up our speeches and make sense of some things which do not necessarily make sense when you first hear them.

During this session, with the prostitution and gaming legislation and individual members wanting amendments prepared, Parliamentary Counsel have been very patient and worked through it all with us. The food and beverage staff who look after our daily needs are greatly appreciated, as are the efforts of the library staff, travel officers and all other officers in the House.

I thank all members very much for their cooperation. Things have been somewhat tested in the past couple of days with private members' bills, and so on, and some members have been more cooperative than others, but we have got through the business. I thank the Deputy Leader of the Opposition for her cooperation—it is greatly appreciated—and also the two whips, who do a terrific job in here. They do not always get from members the cooperation they deserve, but we have two excellent whips, and the deputies have also done a terrific job. With those few words I wish all members well during the break as they go back and work hard in their electorates.

Ms HURLEY (Deputy Leader of the Opposition): I echo the thanks of the Deputy Premier. It has indeed been quite an unusual session. We were light on for legislation earlier on, and in this final week we have been inundated with legislation involving conscience votes, which is always a challenge. These late nights are a challenge for everyone, not only the members themselves but also the table staff, Hansard certainly, the catering people and the attendants. This time there were some emotional and tense moments, but generally I think it was handled reasonably well. I certainly hope that we get better scheduling of the legislative program in the next session. I think the Deputy Premier has run through all the staff who need to be thanked, and I do not need to repeat that.

I would like just briefly to mention that one of our members in the other house, the Hon. George Weatherill, is retiring. He will not be with us in the next session. I pay tribute to his time in parliament and wish him well in his retirement. The preselected Labor Party member, Bob Sneath, I am sure will do a wonderful job in replacing the Hon. George Weatherill, and we look forward to his contribution. Certainly, we will miss George Weatherill around Parliament House and I hope that he enjoys the rest that he will have from parliament and the 2 a.m. and 3 a.m. finishes we have experienced this week.

I wish all members well during the parliamentary break. I hope that they manage to find some time to rest as well as carry out their electorate duties. I know from the *Advertiser* and various media that some members will be travelling on study leave, and I look forward to reading their interesting reports when they return. I understand from the Deputy Premier that some members will be going to the beaches, but I am sure that most will be working hard during their travel. I look forward to seeing everyone again when we return. I also look forward to some constructive legislation from the government in the next session. I certainly wish the Minister for Government Enterprises better fortune in getting his bills through.

The SPEAKER: Could I also add to the remarks of the Deputy Premier and the Deputy Leader of the Opposition in thanking the combined staff of Parliament House. We rely on them very heavily. They work very hard behind the scenes and it is on evenings such as this, and last evening, that they really are tested. It behoves all of us to ensure that they know that they are appreciated, and it is on these occasions that we can pass on our appreciation. Certainly, on behalf of the Deputy Premier and the Deputy Leader of the Opposition, I extend our thanks to those people. I thank members for their cooperation during the session. I wish you well during the recess and look forward to seeing you all back here after the break.

Motion carried.

At 2.48 a.m. the House adjourned until Tuesday 15 August at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 11 July 2000

QUESTIONS ON NOTICE

WORKERS COMPENSATION CLAIMS

29. **Ms KEY:** What are the names of the private and public sector agencies which were granted exempt employer status under the Workers Rehabilitation and Compensation Act 1986 in 1997-98 and if any of these agencies have outsourced their claim management function, what are the details and who is performing this function?

The Hon. M.H. ARMITAGE: This question was asked by the honourable member during the Second Session of Parliament and subsequently answered on 1 June 1999, pages 1640-1.

30. **Ms KEY:** What is the number and average time delay for workers' compensation claims forwarded by non-exempt employers in excess of the five business days requirement under section 52(5) of the Workers Rehabilitation and Compensation Act 1986 during each of the past four financial years and have there been any prosecutions for breaching section 52(5) and if not, why not?

The Hon. M.H. ARMITAGE: This question was asked by the honourable member during the Second Session of Parliament and subsequently answered on 1 June 1999, page 1641.

FIREARMS ACT

109. **Mr ATKINSON:** How many people have been penalised under offences created by the 1996 amendments to the Firearms Act 1977 and what are the range of penalties imposed?

The Hon. R.L. BROKENSHIRE: The Attorney-General has been advised by the Courts Administration Authority of the following information:

Between 5 September 1996 and 1 May 2000, 91 people have been penalised by offences created by the 1996 amendments to the *Firearms Act, 1977*.

The range of penalties imposed for those offences were—

- Imprisonment;
- Suspended sentences;
- Community service orders;
- Conviction and fine (with a range of $44 to $938); and
- Conviction without penalty.

BLACKTOP ROAD

123. **Ms STEVENS:** What was the total cost of the recent upgrade to the section of road adjacent to the electricity substation on Blacktop Road, Hillbank and what is the expected life of this upgrade?

The Hon. DEAN BROWN: The Minister for Transport and Urban Planning has provided the following information:

The total cost was $125 000, comprising $95 000 for upgrading and $30 000 for final sealing and linemarking.

It is difficult to assess the expected life of the upgrade with any degree of certainty as the nature of the underlaying ground conditions (ie swelling and shrinking soils) will eventually lead to the road surface becoming uneven again.