HOUSE OF ASSEMBLY

Wednesday 15 October 2003

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

PARLIAMENT, REPORTING

The SPEAKER: It has been drawn to my attention that there has been a breach of the privilege of recording and broadcasting or publishing the proceedings of the House of Assembly. I will require a written apology for that breach. Whilst I acknowledge that the images broadcast of the people being filmed in the public gallery on the occasion were not of people behaving in a disorderly manner and that the broadcasting of the image did not, on the face of it, detract from the dignity of parliament or from the impression that it conducts its affairs in a dignified manner, it is still an unacceptable practice to assume that any such broadcast will be acceptable without first speaking to the member in the chair at the time and obtaining their consent.

To allow news agency discretion in determining where to film, what to film and what to broadcast and when to broadcast it will result in a gross loss in security of the parliament building and all the people who work here. Worse still, in circumstances such as those in this instance to which I refer, when filming of the people sitting in the public gallery had occurred, it will result in members of the public, in particular specific pressure groups and lobbyists who want to make their point more forcibly and to a bigger audience than would otherwise be possible, coming into the public gallery of the house with embellishments and displays, whether creating a disturbance or not, to gain attention and thereby achieve the desired outcome for their cause; that is, people will dress up and come into the gallery and stack on a stunt. Such is not the purpose of parliament.

Whilst I am in the chair, I will do everything necessary to uphold the dignified conduct of affairs as the conditions of permit require in this aspect of the way the proceedings are reported to the public and thereby prevent parliament from becoming an abstract billboard of public opinion of this kind and in this way, resulting in the public getting the mistaken impression of what should or does go on in parliament and its real purpose in the delivery of good governance of society.

Parliament must become a more civilising and edifying institution in the things that it does and is seen to do in the minds of the people whom it represents in the course of its deliberations and purposes. In future, if broadcasts of this nature are to be made without the consent of the chair, the offending agency will have its approval to attend at parliament revoked. It will then be a decision for the house Privileges Committee, and not the chair alone, to determine if and when the permit will be reinstated.

It is my judgment that the particular condition is written with all good intention but not producing necessarily the desired outcome. It is equally therefore my intention to invite honourable members to contemplate the establishment of a press council, which should comprise a representative of each of the agencies seeking and given the accreditation to be in this chamber, as well as a member from at least the government party, and the opposition party, and the Speaker, and one other member of the Privileges Committee, to review the privileges of recording, broadcasting or publishing the proceedings of the House of Assembly and determine whether they are appropriate.

More especially, while I am on my feet, can I say that, whereas neither a policeman nor a CFS volunteer nor a soldier, nor any other person who wears a uniform, including a judge, does so in order, one hopes, to acquire, from some imagined source of authority the uniform gives them, any greater competence and confidence to do that job, they nonetheless wear it to make it possible for all other citizens to see that they are holders of the office, for the time that they occupy it, and especially those who have to work with them in the course of their duty. I certainly as an individual, and the Chair, in any instance, does not require any such trappings to acquire the confidence and competence to do its job.

SEXUAL HEALTH AND RELATIONSHIP EDUCATION PROGRAM

A petition signed by 163 electors of South Australia, requesting the house to urge the government to immediately withdraw the trial of the sexual health and relationship education program, developed by SHINE, from all 14 participating schools, pending professional assessment and endorsement, was presented by the Hon. W.A. Matthew.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Emergency Services (Hon. P.F. Conlon)—

South Australian Country Fire Service—Report 2002–03

By the Minister for Education and Children's Services (Hon. P.L. White)—

Non-Government Schools Registration Board—Report 2002–03

By the Minister for Tourism (Hon. J.D. Lomax-Smith)—

Adelaide Convention Centre—Report 2002–03.

COMPUTER OFFENCES AND IDENTITY THEFT

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: The government is launching a legislative attack on two crimes of the new millennium—computer offences and identity theft. The Statutes Amendment (Computer Offences) Bill 2003 will target cyber criminals who try to hack, ping or use a virus to attack South Australia's vast network of business computer systems as well as home PCs.

Hackers gain unauthorised access to a protected computer to obtain information stored on hard drives, such as credit card numbers, bookmarked information and files. Cyber criminals also use viruses distributed by email to destroy all data at a specified time, or copy information and send it to the intruder regularly, and pinging to overload a web site by sending it masses of data until it slows intolerably and denies access to legitimate customers. The damage caused by such attacks may be even greater than swinging an axe through the computer's hardware, yet our current computer related laws are not clear cut when no physical damage can be seen. The new laws will impose penalties of up to 12 years' gaol and be broad enough that they do not become outdated quickly.

Computer systems are integral to our daily lives and in the everyday operation of our schools, hospitals, governments, banks and even the management of our personal budget at home. The bill will target:

- The use of a computer with intent to commit or facilitate the commission of an offence (within or outside South Australia);
- Unauthorised modification of computer data;
- Unauthorised impairment of electronic communication; and
- Possession of computer viruses with intent to commit a serious computer offence.

The government is also introducing groundbreaking legislation targeting identity theft that is estimated to cost Australians $3.5 billion a year.

We are the first in Australia to crack down on people using someone else's personal information with the intention of committing a crime. Identity theft can pave the way for terrorist activities, as well as help fraudulently establishing credit, the running up of debt or the takeover of existing financial accounts. We want to crack down on these crimes before the information is used to help terrorists, illegal immigrants and drug couriers, let alone assist with money laundering or frauds against people, businesses or government. Crooks get this lucrative information by scavenging through rubbish (that is dumpster diving), stealing mail, peeking over someone's shoulder at a public phone, computer or ATM (known as shoulder surfing), or using an electronic device to scan a credit card, possibly even as it is handed over by its owner to pay for something (a rort known as skimming).

The Criminal Law Consolidation (Identity Theft) Amendment Bill 2003 has been finalised after extensive national consultation. It makes it an offence to:

- Assume a false identity, pretend to have particular qualifications or act in a particular capacity and intend to commit or help commit a serious criminal offence;
- Use another's personal identification information intending to commit or help commit a serious criminal offence;
- Possess or produce material helping someone assume a false identity or exercise a false right of ownership intending to use it or allow another to use it for a criminal purpose;
- Sell or give material enabling someone to assume a false identity or represent a false right of ownership to another knowing that it is likely to be used for a criminal purpose; and
- Possess equipment for making material that would enable someone to assume a false identity or right of ownership intending to use it to commit these offences.

The legislation imposes tough new penalties that fulfil the government's commitment to law and order.

The Hon. DEAN BROWN: I rise on a point of order, sir. The Attorney-General has just made a ministerial statement on a measure which he has already indicated on today's program and which he intends to introduce as a bill before this house. It would appear that, while it is not technically in breach of standing orders, it is in breach of the spirit—

Members interjecting:

The SPEAKER: Order! I want to hear the point of order.

The Hon. DEAN BROWN: While it is not actually in breach of standing orders, I think it is technically in breach of the whole principle of the standing orders in that, clearly, the minister is intending to introduce a second reading speech on this bill. Why repeat the same material to the house?

The SPEAKER: The deputy leader raises an interesting point. I think in the spirit of standing orders when they were established, with respect to the provision of ministerial statements, it was never intended that it would provide what has become over the years the chance to have a double bite at the second reading speech, in effect, by taking the opportunity prior to question time, which is probably premium time in the opportunity it affords the house, through coincidence, to have its proceedings broadcast, to have those remarks the government wishes to make about the measure it intends to introduce presented as one side of the debate in the form of a ministerial statement. I understand what the deputy leader has alluded to. I will not uphold the point of order, but I sincerely believe the best way in which to deal with it is through the Standing Orders Committee since I see the practice is now well outside the spirit of what was intended. I believe it needs to be repaired such that the aspects of the debate are better balanced than they are under the current strict legalistic interpretation of the standing orders—which has occurred.

RAILWAYS, LEVEL CROSSINGS

The Hon. M.J. WRIGHT (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. WRIGHT: In response to recent media reports I advise the house of the efforts of this government regarding public safety around level crossings. South Australia has a good rail safety record. We also have in place structures that enable both government (as the rail safety regulator) and industry (as the owners and operators) to examine and learn from all incidents to ensure safety is paramount. Two recent incidents at Kings Road, Parafield Gardens, and Rennie Road, Ethelton, were the result of two unrelated causes and should not be linked with the tragic Park Terrace crash at Salisbury almost 12 months ago. However, motorists, cyclists and pedestrians must remember that level crossings, much like major road intersections, are dangerous places and people must exercise caution whenever crossing. The Park Terrace crash was a very sober reminder of this, and the government responded decisively on a number of fronts. In relation to regulation, the government has a major role to ensure rail safety under the Rail Safety Act 1996. The rail safety model used in all states and territories is a co-regulatory model, with responsibility for rail safety jointly shared by industry (which owns track and runs rail operations) and government (which overseas safe operations). In relation to metropolitan passenger rail services, a government business enterprise, TransAdelaide, owns track and runs rail operations.

The South Australian government works closely with industry and the unions to ensure that all parties are working together for the safety of the community. A rail safety group, including government and industry, meets monthly to review practices and share information. In addition, penalties must encourage compliance, and the government has strict penalty regimes to reflect the seriousness of queuing across rail lines and other traffic offences relating to railway-road interfaces.

In regard to level crossings, over the last 12 months since the Salisbury incident, the Level Crossing Safety Committee has been reestablished with representation from the Australian Rail Track Corporation; TransAdelaide; Transport SA; SA Police; Rail, Tram, Bus Industry Union; and the RAA. The role of this committee is to maximise public safety

wherever motor vehicles, pedestrians, cyclists and trains interact at level crossings across the state. A level crossing unit has been established within Transport SA which has mapped 1 350 level crossings and so far has risk rated and field inspected about 290 crossings. This work will continue.

In regard to capital expenditure, around $3 million has already been committed by the government this year as a result of the work undertaken by the Level Crossing Strategy Advisory Committee. As previously announced, in addition to the work at Salisbury, a comprehensive upgrade will occur at three significant level crossings—Cross Road at Unley Park, South Road at Wingfield and Magazine-Cormack Road at Dry Creek. The government and the Level Crossing Strategy Advisory Committee acknowledged that the upgrading of level crossings involves longer-term planning and investment, and the committee currently is developing its investment program for future years.

In regard to education, a Rail Education Unit works with schools to raise track awareness among young people.

Since the tragic Salisbury crash, the government has acted vigorously to improve rail safety. Although we have a good rail system and we are vigilant in maintaining mechanical and engineering safety, systems are not immune to human error. Nonetheless, we will always work to eliminate risks arising from human error. We urge industry, employees and the general community to support us in our efforts to maintain a safe and effective rail system.

PARLIAMENT, MOBILE TELEPHONES

The SPEAKER: Order! There is a mobile phone in the chamber that is switched on. During the recent executive committee meeting of the Commonwealth Parliamentary Association and the general assembly in Bangladesh in Dhaka, I had the opportunity of discussing this problem with other presiding officers. I inform honourable members that in some other parliaments suspension is automatic if a member brings into the chamber a mobile phone which is switched on. In fact, in the House of Commons, when I asked for how long a member who so offended would be suspended, I was told off hand that it would perhaps be for two or three years.

Members interjecting:

The SPEAKER: Order! I do not see it as an object of mirth that we ought to show disdain for what this place is about by bringing into the chamber those things that are called mobile phones, hand phones or message sticks, depending on where you are. It is a serious breach of the privileges of the precincts of the chamber. Members are supposed to be here with the ideas and information they carry in their minds and their conscience, to do, on behalf of those they represent, things which are in best interests, and, whilst they are here, not to be coached by anyone from outside, or distracted from their purpose. Bearing in mind, then, that either in the Canadian Commons or the House of Commons it would not be just for a day but for weeks or maybe years that a member is suspended, can I urge honourable members that if they must, for security reasons, bring mobile phones into the chamber, they be switched off. Of course, anyone in the gallery will be removed with the phone; but not once they leave the chamber—the phone and the owner may part company.

QUESTION TIME

WORKCOVER

The Hon. I.F. EVANS (Davenport): Can the Minister for Industrial Relations confirm that a company has offered payment of up to $5 million to WorkCover to leave the WorkCover scheme and become self-insured?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I cannot confirm that, but I will check the details for the member for Davenport and come back to the house.

ADULT LEARNING

Mrs GERAGHTY (Torrens): My question is to the Minister for Employment, Training and Further Education. In this first year of the International Decade of Literacy, how is the importance of adult learning in South Australia being promoted?

The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education): I thank the member for Torrens for her question. I know she realises the significance of adult and community education in our society because she, like myself, is aware of and concerned about the level of literacy in the community. The activities during this first year of the 10-year cycle for the Year of Literacy includes some of the activities that have been occurring for some years, in particular Adult Learners Week. In addition, a realignment is beginning with our other education facilities and courses. As it is, the adult and community education system is focused upon flexible and relatively unstructured, easy-to-access training for people which is not always structured around training modules, but which includes literacy, numeracy and competencies which are about life skills and self-confidence. In particular, in this Adult Learners Week there have been courses that have included mechanical car courses, agribusiness topics in the Murray Mallee, a two-day course for women on dirt driving techniques, as well as emergency roadside mechanical repairs at Elliston and the Eyre Peninsula.

The reason that these courses are so important is that they give people access to training. Currently, 45 per cent of adults within our community have low literacy levels of a standard which makes it very difficult for them to cope with our industrial and global economy. Those people are very often those in our community who have dropped out of school, out of training and out of employment, and the realignment of our further education system is particularly important because having re-engaged these individuals in our ACE system, we are then developing links so that they can go into more formal learning that can give them the skills, the certificates and the diplomas that will allow them to enter the workforce.

So this Adult Learners Week is an important advocacy and marketing week and a way that we can raise the profile of adult and community education and, therefore, allow those re-engaged individuals to get back into formal training. The member for Torrens will be particularly interested to know that during this Adult Learners Week involvement in education an award has been made to the Torrens Valley Institute of TAFE which won the outstanding large provider award for their adult community and education program. So, I congratulate them for that achievement, and point out that their activities are a good way of re-engaging those people

who were lost from the education system during the preceding years of Liberal rule.

CYCLING

The Hon. D.C. KOTZ (Newland): Will the Minister for Recreation, Sport and Racing advise the house what steps he will take to ensure that the Australian Institute of Sport's Adelaide-based cycling program will not be lost to South Australia? The AIS is facing the closure of its Del Monte headquarters at Henley Beach because of the loss of its major tenant, the Adelaide Cricket Academy, which expanded to become the Centre of Cricket Excellence now based in Queensland. The removal of this major tenant will result in a cut of more than 50 per cent to the Australian Institute of Sport's accommodation income, making it an non-viable financial option to remain at those premises. This could also result in a substantial loss of income to South Australia's velodrome.

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): I thank the member for her question. I have been advised that the South Australian Sports Institute and the Office for Recreation and Sport have been having discussions with the Australian Institute of Sport about options beyond 2004. I have also been advised that there is an AIS commitment to Del Monte and the cycling program until preparations for the Athens Olympics have been completed.

The Australian Sports Commission is convening a national forum in November this year, and again in February next year, to finalised recommendations regarding high-performance sport funding and programs for the 2005-2009 period. SASI and the Office for Recreation and Sport will be involved in these discussions with national sporting organisations and other stakeholders as the plans are formulated for that four-year period.

A major objective and commitment of SASI in this process is to retain the key role that it plays in the national high-performance system. SASI will accordingly be seeking to retain and extend the opportunities to conduct programs in South Australia. SASI will also be endeavouring to maintain and secure additional opportunities to host national and AIS-type programs in South Australia.

This process occurs at the same stage each period through a cycle, so it is no different to what happens in pre-Olympic situations. It occurred, obviously, before the last Olympics. States will be short-listed as occurred before. I think three states were short-listed last time, and obviously we were successful. We would, of course, want that to occur again, and we will maintain that pressure.

The Hon. D.C. Kotz interjecting:

The Hon. M.J. WRIGHT: The member for Newland interjects that we lost the Cricket Academy, yet we were congratulated by SACA for the role that the government played in that. So, I am not quite sure what the member for Newland is interjecting about.

Members interjecting:

The SPEAKER: Order!

WIND FARMS

Mr RAU (Enfield): Will the Minister for Energy advise what flow-on benefits have already been seen from the recent announcement of the Lake Bonny wind farm? Air-Ride Technologies, whose tower factory is in my electorate, made the towers for the Starfish Hill wind farm which we heard about yesterday and which achieved almost 40 per cent South Australian content with contracts worth $25 million.

The Hon. P.F. CONLON (Minister for Energy): Four South Australian companies have been awarded contracts worth about $10 million in this initial stage for work on the state's latest wind farm, Lake Bonney, near Millicent in the South-East of South Australia. Danish company, Vestas Wind Systems, has signed contracts with South Australian companies to manufacture wind towers. There is a series of contracts that flow from that with other companies.

Air-Ride Technologies, which the member for Enfield rightly points out is in his electorate, will build the 34 wind towers for the wind farm project after building 23 for Starfish Hill. This will secure about 50 jobs at its Islington site. As we see more wind farms come on stream over the next few years, we hope that that level of employment with Air Ride may in fact double to 100, which would be very good news. The steel for the project is being supplied by BHP and will be processed by Smorgan Steelmark Metals at Ottoway. I am glad that the Deputy Premier is in the chamber who knows so much about the steel industry and may even have had an association with the company in the past.

The Hon. K.O. Foley: They employed me for 10 years.

The Hon. P.F. CONLON: It employed the Deputy Premier for 10 years and got good value, too.

The Hon. Dean Brown: Where is the steel from?

The Hon. P.F. CONLON: The steel is from BHP; I said that. You remember them? They used to be called the Big Australian. I understand that the deputy leader is actually critical of this news, which just reinforces what I have said—that they only like bad news on that side. They do not like good news.

Australian Heat Treatment has won the contract to metal spray the towers and will be doing this on site using an innovative new process. Air Ride Technologies has invested in a purpose-built facility for the surface treatment of the towers, which includes metalising and painting. Intigo SA will provide non-destructive testing and inspection services.

We have companies here that are world class and that are keen to be involved in the wind energy industry. Our quite cautious forecasts are that we are likely to see up to in excess of 200 megawatts of wind power into the state over the next four or five years. I ask you to compare that with the news today in the *Financial Review* of the New South Wales government decision not to proceed with its latest proposed coal-fired generator because of problems with carbon emissions. The amount of 200 megawatts of wind power will save millions and millions of tonnes of carbon emissions over their lifetime and, as we see here, will offer jobs and technology transfer to South Australians. It will offer contracts to South Australian businesses. It is win-win all round and very good news. I am not surprised that the opposition is now silent because, as we know, they hate good news and only like bad news.

FAMILY AND YOUTH SERVICES

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Social Justice confirm that the so-called 18 new positions in the juvenile justice and secure care area of Family and Youth Services are not permanent new positions but rather 18 trainees with tenure of less than one year? In a press release issued by the minister on Monday, the minister said:

In the areas of FAYS within the Juvenile Justice and Secure Care areas, at least 18 positions have been created.

I have been informed today that the 18 new positions are short-term trainees.

The Hon. S.W. KEY (Minister for Social Justice): I can neither confirm nor deny that, but I will check the detail and get back to the deputy leader.

HOSPITALS, MOUNT GAMBIER

Ms RANKINE (Wright): My questions are to the Minister for Health. What meetings were attended by the minister on her recent visit to the South-East and the Mount Gambier Hospital? What undertakings were given by the her to maintain health services in the South-East?

The Hon. L. STEVENS (Minister for Health): My recent visit to the South-East coincided with a special general meeting of the Mount Gambier District Health Service on Thursday 2 October 2003. I also met with health workers and regional and local government dignitaries, as well as with the boards of the local and regional health services, and discussed local health issues. I appreciated the frankness and constructiveness of those with whom I met.

At the hospital, I had meetings with about 100 people, who highlighted the excellent work being done at the hospital. Both the public and private facilities are outstanding and many programs are exceptional.

An honourable member: Despite what Dean says.

The Hon. L. STEVENS: Despite what the deputy leader says. The staff and patients were unstinting in their praise of the interim surgical work being performed through Professor Guy Maddern of the Queen Elizabeth Hospital while the recruitment of new surgeons continues. I might add that I was told by staff with whom I spoke that this was the first time a minister had spent time talking to the nurses and the people on the job—very interesting indeed!

Other meetings were held with the Mayor of Mount Gambier and representatives from the Mount Gambier and Grant councils. Also, members of the Regional Development Board met with me and offered support. All parties expressed a willingness to work together, both to dispel misleading information about their health service and to secure ongoing resident medical specialists in Mount Gambier.

At the special general meeting, ably chaired by the member for Mount Gambier, I reiterated my commitment to the maintenance of health services in Mount Gambier and said that recruitment would continue until Mount Gambier has its full complement of resident specialists.

This year, the South-East will receive an extra $1.5 million for services for debt relief and to support reform at the Mount Gambier Hospital which has the support of a majority of staff members. Over 70 questions were answered at the meeting, with the chair of the meeting indicating that further detail would be provided in some areas. The meeting concluded with a vote of confidence in the hospital board and the staff being proposed, and this was greeted with clapping and cheers.

An honourable member interjecting:

The Hon. L. STEVENS: The deputy leader was not at the meeting. I am sorry he was not there, because he may have been quite surprised. But then he was never one for going down and really spending time getting to the bottom of problems and trying to solve them. The day after the meeting, the local paper presented another negative story about the health service, and local people told me that they could not believe how appalling the reporting was. Many questioned whether they had even attended the same meeting.

The Mount Gambier health services are run by boards made up by local people who work tirelessly for their local community, and they deserve better support than they get from the local media.

DUBAI TRADE OFFICE

Mr HANNA (Mitchell): Will the Minister for Industry, Trade and Regional Development rule out closing the South Australian Trade Office in Dubai? Australia exports more than $10 billion to the Middle East in which Dubai is our only trade office. The United Arab Emirates, in which the office is located, ranks 4th in terms of South Australia's export destinations. We export even more to the Arab Emirates than we export to China.

Members interjecting:

The SPEAKER: Order!

The Hon. R.J. McEWEN (Minister for Industry, Trade and Regional Development): Yesterday, I tabled a report from Bastian, Belchamber and Dwyer into reviewing BNT, and I indicated to you, Mr Speaker, and others who were interested that I would take a government response to that report to cabinet Monday week. In terms of the specific question, I have been amazed by the preoccupation we have had with the very minimal resources we provide now to four overseas officers. That is all we fund. Of course, Miles Gerone, the Agent-General in London, is funded out of the Premier's lines. So there are only four overseas offices that we fund, anyway, the first of which is Nick Allister Jones in Dubai. Most members would know Nick. He does a great job not only for the state but federally as part of some of the defence trade missions.

Tay Joo Soon runs our Singapore office and has an outstation in Kuala Lumper. Joyce Mack is well known to members in Hong Kong, as is Ken Zu in Shanghai. We only have four officers. Although I have indicated that I will not pre-empt the report that I take to cabinet Monday week, members who have taken the time in the interim to read the review of BMT would have noted that it does not recommend the closure of the Dubai office. If I was to follow its recommendation, certainly we would not be closing the Dubai office.

Equally, it says that we should maintain a presence in China, which means that both Joyce Mack and Ken Zu are secure. If you were to follow the report, the only thing it is suggesting is that we might consider closing Tay Joo Soon's office in Singapore. I recently closed the New York office, and the only presence we now have consistent with that report is in our own right in South-East Asia and the UAE.

The other thing we should do is align our resources far more closely with Austrade. We need to sub-badge South Australia under Austrade as it is the better known brand name. If we can find a closer way to work with Austrade and provide a lot of back office resources, we will get even more value for the limited money we are now spending to maintain a presence in those markets.

MULTICULTURAL AFFAIRS, DEPARTMENTAL REVIEW

Mr CAICA (Colton): My question is to the Minister for Multicultural Affairs. What is the progress of the departmental review of multicultural affairs in South Australia?

The Hon. M.J. ATKINSON (Minister for Multicultural Affairs): The departmental review was necessary because of a lack of clarity in the boundaries between the Office of Multicultural Affairs and the South Australian Multicultural and Ethnic Affairs Commission Secretariat, and confusion in the multicultural community about the roles of the office and the commission. There was a need for improved communication and to strengthen the commission's ability to deliver on its statutory obligation. There was concern that two separate staff agencies providing advice to government was not the best way to provide this important service.

Previously I have told the house that the working committee, supported by the recommendations I received from all the commissioners, unanimously recommended that the commission secretariat and the office staffing units be amalgamated. On 1 July 2003, a new public sector agency named Multicultural SA was created. The recommendations of the review are being carried out by the agency, together with support from the Justice Department, and several other positions have been advertised and are being filled.

Mr Brindal: At what salary level?

The Hon. M.J. ATKINSON: Wait for it! The important elements of this restructuring are that it allocates all Office of Multicultural Affairs and South Australian Multicultural and Ethnic Affairs Commission staff to assist the commission, as specified in the act, and to avoid the personality driven conflicts of the former government's review of 1997, which resulted in this artificial division in agencies. One senior public servant will be allocated to head the agency and will provide services to the commission as its senior officer in accordance with the act.

Everyone on the other side who was in this house in 1997 knows that the multicultural agency had to be split in two because of a personality conflict between the head of the office, a permanent public servant, and a political appointment by the Liberal Party to the chairmanship of the Multicultural and Ethnic Affairs Commission. Everyone knows that was the case. We have returned to a logical arrangement.

Members interjecting:

The Hon. M.J. ATKINSON: In answer to the interjections of opposition members, the recommendations of the review are cost neutral, meaning there will be no cost increases or decreases as a result of the proposed restructure—no more fat cats!

RAILWAYS, LEVEL CROSSINGS

The Hon. M.R. BUCKBY (Light): Will the Minister for Transport release the Level Crossing Advisory Committee Report into the safety standards at level crossings? Following the Salisbury level crossing disaster, the government correctly reinstated the state Level Crossing Safety Committee to investigate safety standards. The committee's report identified 70 crossings requiring attention, but only $2.5 million for four crossings has been allocated in this year's budget. The government will not release the report, so we do not know exactly where or what the problems are and, consequently, we are unable to assess the government's response.

The Hon. M.J. WRIGHT (Minister for Transport): We should not underestimate the seriousness of this issue—and, of course, I made a ministerial statement earlier today outlining the general path that this government has been taking. I think that we need to remind the house about two things, at a minimum. The first is that level crossings are dangerous places; and, secondly, in relation to the Level Crossing Safety Committee, it was the former government that allowed that committee to run down, and it did not continue in its operation.

As a result of the report that was prepared following the very sad situation at Salisbury, Vince Graham recommended to government a whole range of things. All those recommendations were put in place, including the re-establishment of the Level Crossing Safety Committee. Why would I want to prejudice its good work by releasing the report? Committee members are going about their business in a very serious manner. They are addressing the problem and working through it in a systematic way, and that is the way in which it needs to be approached.

EDUCATION, SCIENCE AND MATHEMATICS

Mr SNELLING (Playford): My question is directed to the Minister for Education and Children's Services. How does the government plan to increase student interest and participation in science and mathematics education?

An honourable member interjecting:

The Hon. P.L. WHITE (Minister for Education and Children's Services): We have been talking about that, but I would like to take up the invitation.

An honourable member interjecting:

The SPEAKER: Order! The chatterbox is out of order.

The Hon. P.L. WHITE: I am pleased to respond to this question from the member for Playford and, in so doing, I acknowledge his contribution to policy formation and discussions about the importance of curricula in our schools. There is a significant issue that we want to address. Between 1998 and 2002 there has been a 14 per cent drop in the number of year 12 students studying mathematics and science in this state. That has significant implications, obviously, for the number of South Australian students who undertake study at a higher level in the mathematical and science fields; and, of course, that impacts on our ability as a state to perform in those important industries that have as their basis the mathematics and science areas of study.

I am pleased to inform the house that science and mathematics education in South Australia will receive a $2.1 million injection over the next three years, in a push to increase the take-up of these subjects in our schools and to upgrade our teaching and learning in science and mathematics in South Australian schools. Together with my colleague the Minister for Science and Information Economy, my department and I have developed a 14-point plan to address the declining interest among young people in science and mathematics. The plan is aimed at addressing a number of issues—one of which is the shortage of teachers in science and mathematics in this state—by attracting more people to the vocation and retaining skilled teachers. I am aware that we have to make mathematics and science more exciting and relevant for students. Unfortunately, we are seeing fewer of them choosing subjects such as biology, chemistry, physics and mathematics at year 12 level. Of course, we have some extremely good science and maths teachers both at senior and primary—

The Hon. I.F. Evans interjecting:

The Hon. P.L. WHITE: Excuse me! We have some very good engineers in this state, I might say.

Members interjecting:

The SPEAKER: Order! The minister has the call, and no-one should question the professional integrity of the engineering profession.

The Hon. P.L. WHITE: Thank you, sir, and I concur.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! The member for Davenport can have a conversation at another time. The minister is answering a question, the answer to which I am also interested in.

The Hon. P.L. WHITE: We have a number of very skilled and inspiring science and maths teachers in this state. The problem is that we do not have enough of them. A number of young people complain that the way we teach science and mathematics in our schools is not engaging and that they do not see the relevance of it. We need to change that, and it is important that we do so. The long-term ramifications for the state are frightening, because science and mathematical knowledge are central to innovation and development, and if we do not make that change then our state will suffer. The initiatives include:

- 20 teachers from the Australian Science and Mathematics School coaching classroom teachers around the state in ways in which to make the subjects and the teaching of them more interesting and engaging for students;
- $878 000 over three years to set up 48 technology focus schools to explore ways in which to make science and mathematics fun; and those focuses will move around the state and make the subjects relevant, fashionable and fascinating amongst students;
- industry placements for 36 driven, excellent science and mathematics teachers;
- 20 scholarships for disadvantaged and Aboriginal students to attend the Australian Science and Mathematics School;
- a scholarship for 10 teachers to train as leaders in science and mathematics;
- pairing up teachers with some of the state's best science and mathematics teachers for mentoring and work experience;
- a working party to look at the future recruitment and supply of science and mathematics teachers in the state;
- development of print resources, a web site for students and teachers, and action research trials in up to five high schools; and
- a science and mathematics career expo.

This is one of the most comprehensive plans to revive interest in science and mathematics that we have seen in the past decade. Staff at my department and I have been working very closely on this with the Minister for Science and Information Economy, the Premier's Science and Research Council, the Office of Innovation, teachers, academics and industry to bring forward a plan which attacks the problem on a number of levels and which is aimed solely at improving the way in which we do business in teaching and learning in the science and mathematics fields.

TRANSPORT PLAN

The Hon. M.R. BUCKBY (Light): My question is to the Minister for Transport. Based on what consultation does the government's draft transport plan claim: 'there is considerable community opposition to construction of new roads and widening of existing roads'? Under the heading, 'Understanding the challenges for a safe, effective and sustainable transport system', the government's draft transport plan states:

> The community is opposed to widening existing and building new roads.

This statement has been criticised by the RAA and has been met with a great deal of scepticism by those taking part in the reference group process. From Main North Road to the Princes Highway, my colleagues and I are constantly receiving requests from constituents for new and improved roads.

Mr Brindal interjecting:

The SPEAKER: Order, the member for Unley, again!

The Hon. M.J. WRIGHT (Minister for Transport): I thank the member for Light for his question. Of course, there will always be claims for the building of new roads, and that goes unquestioned. But one of our challenges is to maintain the asset that we have: just as in every other state of Australia and in other countries around the world, one of the challenges is to maintain the asset that we have. That is not to say that new roads will not be built because, of course, they will, but it is not simply a matter—

Mr BRINDAL: I rise on a point of order, sir. Standing orders clearly require the minister to address the substance of the question, and the substance of the question, as I heard it, was what is the minister's authority for claiming that the public believes a certain thing?

The SPEAKER: The honourable the minister.

The Hon. M.J. WRIGHT: Thank you, sir. So the challenge is twofold. It is to maintain the asset and ensure that we get best value out of it. We are not the only state in that position, nor are we the only country in that position. It would be fair to say—

The Hon. J.W. Weatherill interjecting:

The SPEAKER: Order, the Minister for Administrative Services!

The Hon. M.J. WRIGHT: It would be fair to say that different major stakeholders have different views on that. What the member for Light put forward is correct: the RAA does not agree with that position. But a range of stakeholders was involved in the committee that formulated the draft transport plan; and beyond that, of course, the draft transport plan went out for consultation for a three month period and a range of people and major stakeholders provided input as a result of that consultation process. It has been very extensive.

As I have said previously, this government has taken on the challenge of producing a transport plan. The former government talked about it for eight years and never produced it. This government has achieved it.

GOVERNMENT, COLLABORATION

Ms THOMPSON (Reynell): My question is to the Minister for Administrative Services. What is the minister doing to encourage collaboration between local government and state government to limit costly doubling up across these two spheres of government?

The Hon. J.W. WEATHERILL (Minister for Administrative Services): I thank the member for her question. I note that in her role as chair of the Economic and Finance Committee she plays a careful role in the way in which taxpayers' money is dedicated to ensure that we in fact get the maximum benefit out of it. In relation to ensuring that there is no inappropriate doubling up between the two spheres of government, the government is building on what has been a growing and impressive degree of collaboration between the two. It is fair to say that there is, indeed, a new era of cooperation.

We have recently announced the launch of a South Australian government tenders web site that will now be shared with the local government sector. This is an important

initiative because it means that local government and state government—both of which approach similar contractors in many cases—can, through the one electronic means, advertise their tenders on the same site. It means that efficiencies are created between the two levels of government. Obviously, costs can be shared, and suppliers who tender for both state and local government services and operations can access a one-stop tendering shop.

The initiative indicates a much improved commitment to ensuring that those people with whom we do business get the best access to government. I think most people in the community do not much care whether the money they pay is rates or taxes, as they are not too fussed about who is responsible for it. All they want is a service, and we should be doing everything we can to deliver to the community a seamless service.

Today I have come from a minister's local government forum meeting, and one of the key topics on the agenda was stormwater and what we can do across Adelaide to cooperate. We considered the very valuable report that was prepared by the Environment, Resources and Development Committee which made a number of very useful suggestions about the way forward. What the forum did was to commission a tender to look into ways of improving cooperation across the whole of the metropolitan area to manage our stormwater network. That tender will go on the new SA Tenders website to be available for companies that feel they have the expertise necessary to respond to that challenge. So, there is a new-found cooperation between both spheres of government. There is enormous pressure to do more with what we have, and the SA Tenders website is a good example of that collaboration.

TRANSPORT PLAN

The Hon. M.R. BUCKBY (Light): My question is to the Minister for Transport. Given that the recently released AAMI driver survey claims that one of the key determinants of frequency of accidents is traffic density, will the minister advise the house which major metropolitan roads have been earmarked for priority bus lanes under the draft transport plan? In the draft transport plan it is stated that bus priority will be improved through the use of real-time information to move buses through traffic signals, and by the creation of several new bus lanes. This means that traffic flow on several major metropolitan roads could now be slowed as traffic lanes are lost to priority bus lanes.

The Hon. M.J. WRIGHT (Minister for Transport): I thank the member for Light for his question. He certainly has a fascination with the draft transport plan. Perhaps it is related to the fact that the former Liberal government talked about it for eight years but could not deliver. The other point that I would like to make about the draft transport plan—and the member for Davenport has hit it right on the head—is that it is a draft. It has gone out for consultation. The plan has not been finalised. Of course, when it is finalised all those details will become available to the member for Light and other members of the house.

Mr KOUTSANTONIS (West Torrens): My question is also to the Minister for Transport. What is the status of community engagement and the level of interest in the draft transport plan released earlier this year?

The Hon. M.J. WRIGHT: I thank the member for West Torrens for his question. This was the question that the member for Light wanted to ask. The draft transport plan was released in May 2003 for a three month consultation. Feedback has been very high. There have been 10 community forums, including seven in the country; 12 forums with peak bodies and interest groups; approximately 200 email submissions; 229 written submissions from individuals and organisations; approximately 840 calls on the 1800 information line for further information; over 9 000 website hits; and 519 downloads of the draft plan.

Members interjecting:

The Hon. M.J. WRIGHT: Sir, they do not like it because they could never produce their own transport plan. People have been eager to debate transport issues and contribute ideas. There is great support for the development of a transport plan—

Members interjecting:

The SPEAKER: Order! The member for Wright might like to go and sit beside the member for Mawson and enable me to hear the answer without the interference or static that seems to be occurring midway between me and the minister, in their conversation across the chamber.

The Hon. M.J. WRIGHT: This is the first transport plan in 35 years. It will provide a policy framework for future decision making. South Australia faces significant transport challenges: no-one has disputed these challenges, only the finer points in how to address them. Overwhelmingly, the balance of the draft transport plan is considered about right—a balance between environmental, social and economic challenges. Not surprisingly, some sectors have argued for more focus in their own areas; for example, regional councils want more emphasis on regional concerns, the Committee for Adelaide Roads wants a north-south freeway, and the People for Public Transport would like more public transport projects and services. The transport plan is the first step in identifying, prioritising and addressing these challenges. Collaboration with the community, local and federal governments and the private sector will be critical in addressing the transport challenges ahead, given that the state government alone cannot solve all these issues.

The SPEAKER: I am a bit worried about the toy train tokenism.

STAMP DUTY, AVOIDANCE

The Hon. I.F. EVANS (Davenport): Has the Treasurer received any advice from the Commissioner of State Taxation or Treasury of an increase in the number of South Australian businesses incorporating their businesses in Victoria to avoid the payment of stamp duty on the sale of their business? Also, what is the estimate of the stamp duty that might be lost from the budget forward estimates? In the last two years, both Victoria and Tasmania have abolished the payment of stamp duty on the transfer of shares in unlisted companies.

The Hon. K.O. FOLEY (Treasurer): I thank the member for his question. I am happy to seek that advice from the Taxation Commissioner but, implied in that question, is that we should be doing the same, which would consequently mean a loss in revenue. They are not bad, this lot. One minute Labor is spending too much, the next minute we are not spending enough. One minute we should not raise taxes, the next minute we should cut taxes. When it comes to managing the budget, the Liberal opposition of this state are all over the shop. They have no financial credibility.

The Hon. W.A. Matthew: We fixed your mess.

The Hon. K.O. FOLEY: It is up to the member for Bright to hark back to the State Bank. My challenge to the Liberal opposition in this state is, 'Do you support this state getting a AAA credit rating?' If you supported a AAA credit rating, support this government. They cannot argue for less taxes, they cannot argue for more spending, they cannot argue to run the surpluses down and go into deficit, but still want to have a AAA credit rating. They must be consistent, and they have to support this government's budget measures. For once, the opposition should tell us how they will pay for their spending commitments. If we believed the member for Unley, we should spend—

Mr WILLIAMS: I rise in a point of order, which is one of relevance. This has absolutely no relevance to the question.

An honourable member: He is debating.

The SPEAKER: Yes, I am inclined to agree. Has the honourable Treasurer concluded?

The Hon. K.O. FOLEY: Yes, sir.

The Hon. I.F. EVANS: I have a supplementary question. Can the Treasurer please advise the house how he would have achieved a AAA credit rating if the electricity assets had not been leased and the debt reduced by $5 billion?

The Hon. K.O. FOLEY: I am not quite sure how that can be a supplementary question to a question about stamp duty. However, I can say this: Moody and Standard and Poors have made the statement that this state—

Members interjecting:

The Hon. K.O. FOLEY: Standard and Poors, from memory, in their release made the statement, or words to the effect—notwithstanding the reduction in debt—that the state's credit rating could not be considered for an upgrade because of the fiscal policies of the former government. That was—

An honourable member: Rubbish!

The Hon. K.O. FOLEY: That was not rubbish. It was in the press release. The rating agencies would not consider an upgrade for this state because the then Liberal government could not do what Labor has done, that is, balance the budget. The Liberal opposition when in government could not balance the budget. That is not my word; that is not just the political rhetoric of Labor. That is the fact. That is what the rating agencies have said.

I can say to the house that I had a meeting today with Moodys. I met with the rating agency Moodys today as they are doing one of their trips to South Australia. Moodys said to me today that one of the reasons why they upgraded the state was that they are confident that there had been a significant turnaround in the political willingness of government to tackle the budget problems of this state. That is this government. Labor will continue to do what the Liberals could not: it will balance the budget.

HOUSING, RIVERLAND

Ms BEDFORD (Florey): My question is to the Minister for Housing.

Members interjecting:

The SPEAKER: Order! I cannot hear, the Hon. Minister for Infrastructure! I apologise to the Minister for Administrative Services; I have, mistakenly, been referring to the minister when I should have been referring to the Minister for Infrastructure. The Minister for Infrastructure has had a meal of grumpy grumble beans and he needs to go quietly, or he will go.

Ms BEDFORD: What work is being done to provide transitional housing for families in the Riverland?

The Hon. S.W. KEY (Minister for Housing): I was very pleased recently to have opened a joint building project between the Salvation Army Shield Housing Association and the South Australian Community Housing Authority at Berri. The project will provide homeless families with a new safe haven in transitional housing at a community housing project in the Riverland.

Four three-bedroom homes will be used to provide intensely supported short-term accommodation for families and will provide stability and enable the transition to more long-term accommodation. The homes are a $514 000 joint venture between the state government (through the South Australian Community Housing Authority), the Red Shield Housing Association and the Salvation Army Property Trust.

Community housing is playing an increasing role in regional and rural South Australia and has the capacity, I believe, to address local conditions with local responses. This is a really fine example of how locally based issues have been responded to, particularly those such as homelessness and the supply of housing in regional areas, and of how the development of private and community partnerships can really work.

I also take this opportunity to commend the good offices and good work of the member for Chaffey in this area. As a result of visits that I have made to the Riverland area in the last two weeks and of two different functions that I have attended (the second one involving some links with regard to the Riverland domestic violence service), we are now looking at another transitional and emergency accommodation project with the heads of churches in that region.

BIKIE GANGS

Mr BROKENSHIRE (Mawson): My question is to the Attorney-General. If the government has information about outlaw motorcycle gang involvement in security companies, why has the minister not issued a warning to the public naming those companies?

The Hon. K.O. FOLEY (Minister for Police): That is clearly operational material and information from the police department.

Mr Brokenshire interjecting:

The Hon. K.O. FOLEY: If the former Liberal government did not have the courage to give us laws to protect the community, this government will. The Premier (and I can speak for the Premier on this issue) makes no apology for his position of being tough on crime. That is the position of premier Rann and one that he is prepared to advance in the interests of this community. With respect to matters relating to the Premier's concern about outlaw bikie gangs, the Premier has made no secret—

Mr BROKENSHIRE: I rise on a point of order. I seek your guidance, sir, on a point of order regarding relevance. The question was very specific. Given that they have these claims, why did they not warn the public of companies employing these OMCG security groups? It is a specific question.

The SPEAKER: I uphold the point of order. The Deputy Premier needs to address the question. One understands the sincerity of the Premier. One needs to know more about which firms were involved.

The Hon. K.O. FOLEY: Information provided to the government will be dealt with in confidence. I can say this:

when in government the Liberal Party would not tackle the issue of outlaw bikie gangs in this state. Labor will.

Mr WILLIAMS: I rise on a point of order, Mr Speaker.

The SPEAKER: Order! There is no necessity to take a point of order. The information being provided was not relevant to the question.

HOSPITALS, FLINDERS MEDICAL CENTRE

Dr McFETRIDGE (Morphett): Will the Minister for Health say why there are still unacceptable delays in the accident and emergency unit at the Flinders Medical Centre? Yesterday, two elderly constituents of mine took their autistic son—

The SPEAKER: Order! The honourable member is likely to obtain it if he, with due humility, seeks leave of the house to explain his question.

Dr McFETRIDGE: I apologise, sir. With your leave and that of the house I will explain the question. Yesterday, two elderly constituents of mine took their autistic son to the accident and emergency unit at the Flinders Medical Centre with suspected internal bleeding. They arrived at 8.15 a.m. and did not have their son assessed by a specialist until 7.30 p.m., nearly 12 hours later.

The Hon. L. STEVENS (Minister for Health): I would be pleased to look into the specific case in more detail. In a more general sense, our accident and emergency departments are extremely busy at the moment. The Flinders Medical Centre in particular is experiencing extreme pressure at this time. In relation to this matter, since coming to office, the government has opened 146 beds in metropolitan hospitals—

An honourable member interjecting:

The Hon. L. STEVENS: No, not trainee beds—in an attempt to start to deal with these issues, which are quite complex. One of the most disappointing things of all is that, in the Australian health care agreement we have just signed with the federal government, South Australia has lost $75 million over five years. The most disappointing thing of all, member for Morphett, was that the opposition collaborated with the Prime Minister against the interests of this state. This has meant that we have missed out on $75 million over five years—$75 million that would have been put into our public hospitals to address the very thing that you have just raised.

PATAWALONGA

Dr McFETRIDGE (Morphett): Will the Minister for Transport say what the Department of Transport is doing to monitor the working conditions and operation of the barrage gate at the mouth of the Patawalonga?

The Hon. P.F. CONLON (Minister for Infrastructure): I will take the question, because I am closer to it than the Minister for Transport. Technically, the Minister for Environment, Heritage and Water Resources is the minister responsible. A number of things have been done since the floods at Glenelg, the first of which was on a very practical step, namely, the requirement that the operators have someone physically present at times of high rainfall. We believe that this was the least possible safeguard necessary.

The member for Morphett would also recall that, under the contract let by the previous government, we have issued a number of what I think are technically referred to as breach notices stating what we believe went wrong. That notice also requires the operator to explain to us how such breaches, if established—and we believe they will be—will be prevented from occurring again. We have acted very promptly to make sure that the regrettable events which occurred and which we believe were associated with the operation of the sluicegates do not occur again. I will not go on about it. It is a privatisation contract of the previous government. We have taken all necessary steps to make sure that the disaster set in train by the previous government will not occur again.

The SPEAKER: In his answer, I note the fact that the minister did not stray into the area of sub judice on the civil actions that are currently before the court, and the house needs to be conscious of that constraint on his answer.

WATER PIPES, LEAKAGE

Mr BRINDAL (Unley): My question is directed to the Minister for Administrative Services. Given his answer to questions in recent days in which we concedes that SA Water loses 6.7 per cent of the water that travels from the reservoirs to the taps, will the minister now concede that that 6.7 per cent figure represents 11.2 million kilolitres, with a value approximately the same, and that that is more water than South Australia can possibly afford to waste in any year?

The Hon. J.W. WEATHERILL (Minister for Administrative Services): This is a useful opportunity to inject some factual material into this important debate. One of the things that we have been attempting to do through the Waterproofing Adelaide project is to ensure that facts are available for the community so that they can make intelligent judgments about the future public policy needs for our state's water.

The member for Unley helpfully reminds us that there is a 6.7 per cent loss of water in the reticulated system from the reservoirs and the River Murray through to the taps. If you did not understand it on the previous occasion when I answered the question, I will repeat it on this occasion: that reflects the sorts of level of loss which on international standards is regarded as excellent. There is a whole range of reasons why that is the case in the South Australian network. We have a young network by international standards, and it is particularly well maintained.

Because of the types of soil we have here—mainly clay soils—we tend to see leaks on the surface of the ground. Because of our particular climatic conditions, we tend to be able to locate leaks, because they tend to lead to a particular expression through the way in which vegetation grows around the leakage areas. A whole range of features of our piping network indicate that it has this extraordinarily low by international standards levels of leakage.

The difficulty with the honourable member's question is that it misunderstands the circumstances that would be necessary to do something about the leak. Short of going along our 8 600 kilometres of piping and working out where these leaks are, one could not grapple with those leaks in a serious way that would make any measurable difference to the level of leakage. The honourable member postulated about $100 million to go around and find these leaks.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: That may not be the precise figure, but an extraordinarily large devotion of money would be necessary to make a measurable difference in the leakage that has occurred. One needs an intelligent analysis—and we hope that Waterproofing Adelaide will come up with that analysis—that will compare the choice of taking, say $10 million, $20 million or $100 million of public money and

applying it to that purpose, that is, finding these leaks and perhaps not making a measurable difference on the 6.7 per cent or some other purpose such as water reuse scheme, a desalination scheme, or even perhaps water trading—buying from upstream interstate irrigators who perhaps inefficiently use water and applying that to our network. All those will be considered in this sophisticated study, called Waterproofing Adelaide—a study, I remind the house, that was never embarked upon by the previous government. Some $1.8 million has been found to engage in that study, which is well under way. I invite the member for Unley to participate. It will need a bipartisan approach to set down a 20 year study for our future water needs.

DUBAI TRADE OFFICE

The Hon. R.J. McEWEN (Minister for Industry, Trade and Regional Development): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.J. McEWEN: In answering a question today from the member for Mitchell, although the question was about what I intended to do, I did in part reflect on what the review of the DMT said and I need to further expand that, because I do not believe I totally and accurately represented its position. It says in part:

> It is apparent from our internal consultation that there is some support for the retention of officers in China and the Middle East.

That was the quote I was alluding to. Equally its recommendation is stronger than I alluded to in my answer, so I should quote it for the record:

> While it is evident that there has been some rationalisation in the number of officers since the Dawkins review in June 2002, the review team considers that continued focus on rationalising, resulting in minimum, if any, overseas office representation should be pursued with vigour and that transitional arrangements for the closures of most offices, appropriate transition arrangements be put in place as soon as practicable.

FAMILY AND YOUTH SERVICES

The Hon. S.W. KEY (Minister for Social Justice): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.W. KEY: Earlier today during question time the deputy leader asked me a question with regard to staffing in the secure care area for youth. I am not entirely sure from where he gets his information, but I confirm that the 18.5 full-time equivalent positions that have been created in the family and youth services and community services portfolios are not trainees, as the deputy leader asserted, but are youth workers and youth support worker positions.

A couple of those positions are weekly paid positions. I am not entirely sure where the traineeship question comes in. I can only assume that the deputy leader may have been confusing the fact that in addition to these staff, 25 participants have been requested to complete an in-service introductory training course, which will enable participants to be considered for vacancies of youth support workers in the secure care centres. This is in addition to the staff in that area when the previous government had responsibility for that area.

GRIEVANCE DEBATE

SPORTING PROGRAMS

The Hon. D.C. KOTZ (Newland): South Australia is facing yet another sporting crisis as another vital sporting program in this state is being threatened as a direct result of the inability of this government and its recreation and sporting minister to recognise the importance of retaining sporting infrastructure and sporting events in South Australia. I am of course talking about the possible closure of the Delmonte headquarters of the Australian Institute of Sports South Australian based cycling program. Members will be well aware of the government's debacle over the bid to keep the expanded Centre of Cricket Excellence in this state, which South Australia lost, even though the cricket academy had been successfully hosted in Adelaide for 16 years because the Rann Labor government has shown that it cares very little for sport in this state. In almost every facet of life the incumbent has the inside edge, yet we lost the cricket centre because the Queensland government realised how important sport is to a state and offered financial incentives too great for Cricket Australia to ignore, whilst this government sat on its hands and on its windfall bank balance.

The loss of the cricket centre was a bad enough blow to the sporting future of this state and to the nation-wide image of the state, but few realised just how serious the ramifications would be. Cricket Australia was the major tenant of the Delmonte building at Henley Beach, contributing more than 50 per cent of bed nights through its housing of both academy cricketers and visiting international cricketers. The loss of the academy means the loss of more than half the accommodation income for the Australian Institute of Sport for its Delmonte building and has turned what has been a hugely successful and valuable asset to South Australia into a financially non-viable venture.

The Australian Institute of Sport, which has based its cycling program at Henley Beach for more than a decade, will simply not earn the accommodation dollars it needs to retain the Delmonte complex as its headquarters. Who knows what this will mean for the future of the elite cycling program in South Australia and its negative impact on South Australia's world-class velodrome.

As disappointed as I am that another South Australian sport is facing what looks like a very uncertain future, I suppose I should not be too surprised, given the disappointing track record of this government when it comes to the sporting future of this state. This was a state government that could not understand the immense benefits to our state when it came to the Adelaide International Horse Trials earlier this year, announcing that it would discontinue support for a world-class and internationally recognised sporting icon. This was the same state government that was forced into an embarrassing backflip because of public outrage over the decision.

On the coming eve of the momentous debut of the new Adelaide United Soccer Club into the National Soccer League, this was the same government that forced the demise of the Adelaide City Force because it refused to allow any concessions over the continued viable use of Hindmarsh Stadium as a home venue for a soccer team with a 25-year-old history in the National League. The cycling fraternity in Adelaide must be quaking in its boots when it looks at the government's recent history of support for South Australian

sport. All I can say to this government is that it has a responsibility to all sporting fraternities in this state. The Australian Institute of Sport needs a home and this government needs to look at the situation immediately and seriously because the current situation was brought about by its inability to take appropriate action.

What other sporting events and sports will lose the support of this government and be lost to South Australia? The Minister for Recreation and Sport has not answered the questions I asked in this house about coaching contracts not being renewed, previously awarded by the South Australian Sports Institute to support specific elite sports. Without such government contracts young talented athletes in this state could never become the talented athletes of the future. The big question today is: will this government act to protect this nationally supported cycling program to be retained in South Australia or will the government once again continue to turn a blind eye and allow another state to host this important national program? The only consolation I can take over this particular tragedy surrounding South Australian sport is that a huge percentage of these disaffected sports people will vote in the next election and I assure you, Mr Speaker, and this government that these sports people will have long and bitter memories of this Labor government.

PARLIAMENT, COMMITTEES

Mr RAU (Enfield): I will direct a few remarks today to the subject of parliamentary committees. This is a matter that is very important as it dovetails conveniently with the initiatives you have taken, Mr Speaker, in relation to constitutional reform and bringing the parliament into greater respect in the eyes of the public and to a more functioning level than it presently enjoys. My observations, brief though they are in terms of my experience in this place, suggest that there are anomalies within the parliamentary committees system that do not bear critical analysis. For example, why is it that of the number of standing committees we have, there are, for reasons which I am sure are well founded in history but seem to be little relevant now, some committees that are paid and some committees that are not? Why is it, for example, that the work of members of parliament on a select committee, if one is to judge by the payment allotted for their work, is virtually valueless compared with some of the standing committees?

On my observation some of the best work done by this parliament is done through the work of select committees. My suggestion is that, to the extent that these anomalies exist in the parliamentary committees system, they are distorting the system and distorting the emphasis that members of this place have on the importance of the various committees of the parliament. Why should it be that, because for historic reasons committee A or B receive a stipend and committee C does not, that those committees have an ungodly rush of applicants for them and committee C seems to suffer from a lack of interest? This seems odd to me, and it does not seem to be conducive to achieving the best possible outcomes. It seems to me that, for those of us who do not enjoy executive office, the only way in which we can make a useful contribution in this place might well be through the effective use of parliamentary committees.

Mr Speaker, my suggestion (which I would ask you and other members to contemplate and not immediately respond to, lest I be shot down whilst I am still standing) is that we should offer all members of parliament a fixed increment—I throw off the top of my head a 20 per cent increment, but it could be 10 per cent or 15 per cent; anything—for committee service full stop. It is then a matter for the individual member to decide whether they want to be on a select committee or a standing committee, or wherever they want to be, in the knowledge that they will be doing so because they have something to contribute, because they will be benefiting the parliament and because they have a genuine commitment to and interest in the subject matter being dealt with by that committee, whether it be a select committee or something else.

The question whether a stipend should be attached to the committee should not in any way be permitted to influence the decision of that member or other members who otherwise might not have had the same degree of interest in relation to that committee, or any other committee.

I think we need to see in this parliament good, effective, well resourced committees, which are complemented by having active, interested members on them, whose prime concern is to see the committee prosper in its work and deliberations and to do a good job for the people of South Australia in exploring issues, revealing information, generating ideas and assisting the parliament in its important work both as a legislature and as a scrutiniser of the government arm.

In that sense, and from that perspective, I return to the point at which I started. Why is it that, when we look at the back of the *Notice Paper* and see the standing committees printed there—the Joint Parliamentary Services Committee, the standing committees of economic and finance, environment, legislative review, public works, social development, statutory authorities, and so forth—we see that different entitlements are attached to those committees, but there is no logical difference in the importance of the committees? Who is to say that one is more important than the other? So that we get away from the idea that one committee is better than another, or one gets paid more than another (or some other what, really, in my opinion, should be an irrelevant consideration), we should simply pay everyone something for committee service and let the water find its own level. Let those who have something to contribute in relation to whatever it is make their contribution, and those who feel that they can do something better by not contributing should not be penalised in the pocket for doing whatever else they decide to do.

NATIVE VEGETATION ACT

Mr WILLIAMS (MacKillop): Today I wish to bring to the attention of the house the disturbing way in which the Native Vegetation Act is being administered in rural South Australia, and I wish to refer in particular to a property that I visited in my electorate a few weeks ago. In April this year, a number of rural members from this side of the house wrote to the Minister for Environment and Conservation and raised a number of issues in this area. In August we received the following reply:

> As you would be aware, the primary purpose of the act is to provide incentives and assistance to landowners in relation to the preservation and enhancement of native vegetation and to control the clearance of native vegetation.

I think that they are commendable sentiments. I was recently invited to inspect a property in my electorate after departmental officers had visited the property and stated that they were investigating illegal clearances. The property in question

comprises about 3 300 acres, of which some 765 acres (or some 23 per cent of the total land area) are under a heritage agreement with the department. The first thing I saw on the property was a mallee fowl—and we had, in fact, to stop and wait for the mallee fowl to cross our path. For the benefit of those members who do not know what a mallee fowl is, it is a severely endangered species in this state.

The owners showed me an area where they were told that a firebreak that they were maintaining around the heritage area was over the five-metre regulated width. If one meticulously measured the whole firebreak, I am sure they would find that, in places, the width might exceed five metres, just as I am certain that in other places it would be less than the allowable five metres. The owner maintains the break with a front-end loader, or a bulldozer, when necessary, and as such it is very difficult to be accurate within centimetres, or even occasionally within a metre. The departmental officer told the owner that he should maintain the break by hand with a chainsaw—and, presumably, a tape measure. This farmer maintains 14 kilometres of such firebreaks on the property in question, and the neighbouring property, which contains a further 1 600 acres of native vegetation. It is simply preposterous to suggest that farmers could maintain firebreaks in such a fashion.

The farmer is also being investigated for removing some scattered regrowth on grazed areas of the property. I was astounded when I viewed the areas in question, because it was obvious to me that, without judicious management, the whole area would become an environmental disaster.

A plant that abounds in parts of the coastal strip of the South-East, coastal wattle (or boobialla), is infesting this property. Some argue that this plant is not even native to South Australia; some local naturalists believe that it originated in New South Wales, or even South Africa. In any case, it is certainly not native to the area where this property is situated. Boobialla became endemic along the coast of the South-East only as a result of rabbit infestations which destroyed the original fauna last century. This property also is heavily infested with rabbits and, if the department's attitude is not modified, the whole of the region will be overrun with boobialla; it is only a matter of time.

My constituent is being investigated for removing some of this plant, with associated regrowth, and has been advised that he is not able to remove boobialla, as it is a native species.

An honourable member interjecting:

Mr WILLIAMS: I think it is. My first point is that departmental officers should establish the original range of invasive plants such as boobialla, in particular, and provide incentives and assistance to landowners to control infestations outside that range. Secondly, incentives and assistance with respect to the control of rabbits would be a much wiser use of taxpayers' funds than having officers spending days with tape measures measuring firebreaks and inspecting minor removal of invasive plants in order to harass hardworking, honest citizens. Thirdly, if officers had any practical understanding of farming, they would accept a nominal five-metre fire break and desist from telling farmers that they cannot carry out this important function of maintaining firebreaks in the only practical manner available to them.

I lament the fact—and it is a fact—that much of the goodwill built up between the farming community and the environmental lobby over the last 10 years is being eroded by overzealous and impractical administration of the act and regulations in much of South Australia. The preservation and enhancement of native vegetation in South Australia relies, and will continue to rely, upon both the goodwill and the determined efforts of land-holders and farmers. I firmly believe that enhancing that goodwill and encouraging appropriate stewardship amongst the broad farming community will provide more and longer lasting benefits for long-term biodiversity preservation than the petty harassment that we regularly encounter today.

URANIUM INDUSTRY

Mr HANNA (Mitchell): I wish to speak today on three related matters—the Maralinga atom bomb, the nuclear dump proposed for South Australia and the uranium industry generally. Today marks the 50th anniversary of the first nuclear bomb that was detonated at Emu Junction by the British government. It was called Totem 1. On 15 October 1953, it was dropped into the desert north of Coober Pedy. Weighing the equivalent of 10 kilotons of TNT, it produced a dense radioactive cloud that travelled far beyond the testing range.

Two weeks ago, about 200 people and I gathered at a bush camp just outside Coober Pedy to listen to survivors of Maralinga and Emu Junction recount the impact of the nuclear testing program upon them. It was said 'Wangka irati, wangka Maralinga,'—'Talk about the poison, talk about Maralinga,' and they did. Just about all the men have died off, but there were some distinguished elder women who were able to speak with authority about the ill-effects of nuclear testing, which is one of the inevitable aspects of the nuclear industry.

Many were travelling through the desert when the bomb went off and they copped the full effect of it. People who were affected had red eyes and tongues and a terrible coughing immediately. No doctors were available. Some went blind and many died, and there was a massive outbreak of radiation-related illnesses and genetic birth defects in communities across that part of the Outback. Others were only slightly more fortunate by being bundled out of the area. They were put on trains to other parts of South Australia or driven away. Like refugees, hundreds of miles from their homes, they had no status or familiarity with the areas to which they were sent. Many did not have time to collect their belongings before being sent away. It was a disgraceful episode, and for those people there has not been apology or compensation.

The Kungka people and others affected by that nuclear testing have a very powerful voice in relation to the proposed nuclear dump for the state's north. They are dead against it—as are the Greens and, I am glad to say, the South Australian government. News has just come to hand that the licence application, lodged by the appropriate federal agency for the preparation, construction and transport issues relating to the dump, contains some surprising aspects. One is that the risk assessment conducted independently by a British radiation authority has cast doubt on much of the material originally proposed to be stored in the dump. The federal government has clearly had to change its tack. One of the alterations which the federal government has made is to include plutonium—one of the deadliest isotopes in that matter which is to be stored in the proposed dump. That plutonium, I presume, is from the nuclear reactor at Lucas Heights in New South Wales. Plutonium has not been included in the public consultation processes over the past 10 years or so—at least

not in any way to raise awareness of just how serious and dangerous the matters were concerning the dump.

Finally, I turn to the uranium mining report entitled, 'Regulating the Ranger, Jabiluka, Beverley and Honeymoon uranium mines', which was tabled in the Senate yesterday. It points very clearly to the need to end ultimately uranium mining industry in Australia. That is what the state government needs to address now.

Time expired.

BRUKUNGA MINE

Mr GOLDSWORTHY (Kavel): I have pleasure in reporting to the house that several weeks ago I accepted an invitation from a landcare group in my electorate, the Dawsley Creek Landcare Group, to inspect some quite significant infrastructure works at the town of Brukunga and the Brukunga mine site. What has been completed recently at the Brukunga mine site is what is referred to as the Dawsley Creek diversionary scheme. Works, including pipes and channels extending some two kilometres, have been put in place to divert water from Dawsley Creek around the mine site. As a result, it will dam the natural watercourse.

Before I go into more detail about that, I will present to the house a little history about the Brukunga mine and how it came about. The mine was established after World War II when the state government embarked on a program to broaden South Australia's economic base from agricultural production into a range of new industries. The mining operation at Brukunga, which commenced in 1955, saw the conversion of pyrite to sulphuric acid for the manufacture of superphosphate fertiliser at Port Adelaide. Sir, yesterday in relation to the crown lease legislation, you spoke about how the agricultural production of some more marginal crown lease country was improved as a result of the introduction of fertilisers and so on. The sulphuric acid, as a derivative from the Brukunga mine, was used in the production of superphosphate to improve the agricultural potential of the state.

By the early 1970s, sulphur was being obtained at a relatively low cost from Canada. Consequently, the Brukunga mine became uneconomical and production ceased in May 1972. Since mining ceased at Brukunga, the residual sulphides in the quarry, the two waste rock dumps and the tailing storage have been actively oxidising and generating sulphuric acid by natural processes. What has been happening is that acidic water and heavy metals have been leaching from the mine site into the watercourse. In 1980 an acid neutralisation plant was commissioned by the state government at a cost of $560 000 to protect the Bremer River. It is now administered by PIRSA. What occurs is that acidic water leaches from the mine site, carrying with it dissolved heavy metals, and runs into Dawsley Creek, flows down the creek into the Bremer River, and then from the Bremer River into the Murray Lakes—which harmful to the environment, obviously. More work has to be done following the implementation of the neutralisation plant.

The diversionary scheme has been constructed and additional works remains to be completed at a cost of $20 million odd. This scheme is an initiative of the Olsen government. A diversionary pipeline and channel have been built around the natural watercourse to divert the water coming from upstream Dawsley Creek, around the mine site, and then downstream into the Bremer River. PIRSA has a number of pumping stations along the natural watercourse, which pumps the acidic water into the neutralisation plant, processing it to reduce the acidity to an acceptable level. That water is then returned into Dawsley Creek. With the diversionary scheme being put in place, the increased amount of water that is being pumped will mean that the treatment plant has to double in size.

Time expired.

SCHOOLS, HILLCREST PRIMARY

Mrs GERAGHTY (Torrens): I take this opportunity to acknowledge a very special anniversary for a school in my electorate. Hillcrest Primary School has recently celebrated its 50th anniversary. It was officially declared open on 15 September 1953 and has remained a quality resource for the education of young people in the north-eastern metropolitan area. The number of students enrolled in the school was in excess of 1 000 in the 1960s—and that is hard for us to imagine these days—though this gradually reduced with the subsequent ageing of the population in the area. In recent times the school has seen its enrolments gently increase with the influx of families to new housing developments in Oakden and Northgate and redeveloped areas of Hillcrest.

Given the length of time the school has been in operation, it is a wonderful credit to the staff and students over many generations that great care has been taken to maintain the grounds and the school buildings, which are in excellent condition at present. There was an upgrade some time ago that was a little traumatic. I can vouch for the fact that the grounds are always clean and tidy and provide an excellent environment in which the children can learn and play.

Taking into account the rapid change in the nature of communications, Hillcrest has maintained a strong commitment to providing education in the field of information technology. It is a great credit to the school that it educates its students in this vital medium from a very young age. It is certainly staggering to think of the marked difference in primary school education as it would have been in the 1950s and how it is today.

Hillcrest Primary School also has a strong commitment to outdoor education and has well-established events for students such as school camps and an annual trip to Canberra for year 7 students. The Canberra trips are a wonderful opportunity for students to see the nation's capital and, as part of the trip, naturally, they visit the federal parliament. Over the years, I have been invited to speak to the students about their trips, as well as about government, the role of parliament and the role that a member of parliament plays. The students are incredibly enthusiastic after they have returned from their trips to Canberra, and it is a great pleasure to be with them while they are enthusiastically discussing the things that they have learnt and seen.

It is also a pleasure to speak to the students about their mock parliaments. I can say with complete certainty that the Hillcrest Primary School is the epitome of politeness and decorum. I would add that I have been alarmed on occasion at the use of a claw hammer as the speaker's gavel, although this may provide some indication as to why the student members are so incredibly well behaved!

In 1997, Hillcrest Primary School signed a joint use agreement with the City of Port Adelaide Enfield, and abutting the school is now the Hillcrest Community Centre. The relationship between the school and the community centre has been of mutual benefit to both and is a wonderful example of an approach which has resulted in community building and sharing of local knowledge. The importance of

local communities in school life, as all members know, is incalculable, and the proximity of the school and the community centre to one another has provided an environment in which a sense of community has thrived.

I have visited Hillcrest Primary School on numerous occasions and I have always been impressed by the dedication of staff to ensuring the best outcomes for their students, and it is exceptionally wonderful to have an involvement in a school community with such a sense of pride and a strong focus on the needs of our young people. I congratulate Hillcrest Primary School on its 50th anniversary.

I also add, while I have some time, that the provision of quality public education for such a length of time at this school is a wonderful achievement and, if the quality of teaching staff presently at Hillcrest Primary School is any indication, this trend looks set to continue in the future.

Time expired.

INDUSTRIAL AND EMPLOYEE RELATIONS (EXEMPTION OF SMALL BUSINESS) AMENDMENT BILL

The Hon. I.F. EVANS (Davenport) obtained leave and introduced a bill for an act to amend the Industrial and Employees Relations Act 1994. Read a first time.

The Hon. I.F. EVANS: I move:

That this bill be now read a second time.

I will not hold the house long in my contribution on this bill, which is in the same form as the bill I introduced on this matter in the previous parliament but which did not get to a vote when the parliament was prorogued. This bill seeks to amend the Industrial and Employees Relations Act with a view to exempting small business from the provisions of the unfair dismissals act for the first 12 months of a person's employment. It is consistent with legislation that has been moved in the federal parliament I think 18 or 19 times—I have lost count of the number of times that the hostile senate has rejected such a proposal by the federal government. This is consistent with the Liberal Party's philosophy that small business needs more encouragement and less regulation to grow. All the policies, surveys and questionnaires that have been carried out on this matter over many years are consistent in their outcome, whether they have been done in this state, federally or in other states, and that is that the unfair dismissal law as it applies to small business is a direct disincentive for small businesses to employ and, therefore, acts as a negative in the employment market and, we believe, costs jobs as small businesses make a decision not to employ because they are concerned about the unfair dismissal regime that applies.

I think it is fair to say that larger enterprises with huge personnel, human resources or industrial relations departments are far better trained in staff selection, staff management and those sorts of issues than are small to medium size enterprises. From memory, South Australia has about 65 000 small businesses that employ less than 20 people. A lot of those small businesses are one, two and three person businesses and do not have the training or ability to call on the expertise that the larger corporations have and, therefore, are far more exposed. Because they are more exposed and have all heard the horror stories about businesses 'getting done' for unfair dismissals, the result is that they do not employ. All the surveys show that the unfair dismissal regime is a major concern of small business: it is in their top one or two concerns.

So, again, the Liberal Party puts to the house a provision that seeks to amend the unfair dismissal regime applying to small business. We think this is a balanced approach and will give people jobs and more security to small business. We think it is a positive move and will be seeking the agreement of the house to this bill. With those comments, I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the measure will come into operation one month after the day on which it is assented to by the Governor.

Clause 3: Amendment provisions

This clause is formal.

Clause 4: Amendment of section 105A—Application of this Part

Section 105A of the principal Act falls within Part 6, which deals with unfair dismissals. Subsection (1) currently provides that Part 6 does not apply to a non-award employee whose remuneration immediately before the dismissal took effect is $66 200 or more a year. This clause amends subsection (1) by adding an additional class of person to whom Part 6 does not apply, namely, an employee employed at the relevant time in a small business on a regular and systematic basis for less than 12 months.

The relevant time is the time that notice of dismissal is given. If notice is not given, the relevant time is the time the dismissal takes effect.

A small business is the business of an employer who employs not more than 15 employees. (This does not include casual employees who are not employed on a regular and systematic basis.) However, a business resulting from the division of a business in which more than 15 employees are employed is not to be regarded as a small business even though not more than 15 employees are employed in the business.

Mrs GERAGHTY secured the adjournment of the debate.

MOTOR VEHICLES (EMERGENCY CONTACT DETAILS) AMENDMENT BILL

The Hon. I.F. EVANS (Davenport) obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. I.F. EVANS: I move:

That this bill be now read a second time.

This is a bill that I moved in the last parliament that did not get to a vote because the parliament was prorogued. I was a bit surprised that the government did not actually get to deal with this bill, because I think this is a very sensible bill. This bill seeks to put emergency contact details onto driver's licences.

The circumstances that surround this bill are these. I had a constituent in my electorate whose son was involved a motor vehicle accident, later to die, only two or three kilometres from his parents' home and only two or three kilometres from his own home. From memory, it took the authorities about 17 hours to contact the parents, because they could not track down the link. There was no way to contact the link. It took time. The parents contacted me most distraught that there was not a better system of notification when these sorts of incidents occurred. To their credit, not mine, the family came up with the idea as to why there could not be a system in place where licence-holders could voluntarily decide to place an emergency contact phone

number on their driver's licence. In my case, for instance, I could either put my wife's mobile number or my parents' mobile number on my licence, so that if I am involved in an accident the authorities immediately have a contact through to someone. That seemed pretty sensible to me, because it prevents the families going through that trauma, and it brings them into the fold a lot more quickly.

I was hoping that this, I believe, rather sensible bill would have been dealt with in the last parliament, so I am now hoping that it will be dealt with in this parliament. Essentially, what this bill does is give the holder of a driver's licence the opportunity to place that information on their driver's licence, if they wish.

It also provides the opportunity—again as a voluntary decision of the licence-holder—to place their blood group information on the licence. While that is not quite as important in metropolitan Adelaide, I believe it would be of some advantage to our hospitals and emergency services people in the country. For instance, where someone had to be airlifted to Adelaide they could radio ahead and say 'The person's driver's licence indicates that they belong to a particular blood group.' They would then know whether they had enough blood of that particular grouping. Of course, they would still have to test the person when they got to the medical area to make sure that that information was accurate and that there had not been an error, but at least they would be forewarned and could do some planning.

This particular bill comes out of a tragedy that occurred. It is an idea from one of my constituents, and I think it has a lot of merit. I think it is a very simple idea and I will be seeking that the parliament deal with this matter rather quickly this time, to see if we can get this bill through and provide the opportunity for people to put those details onto their licence. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the measure will come into operation on 1 July 2004 unless an earlier commencement date is fixed by proclamation.

Clause 3: Amendment provision

This clause is formal.

Clause 4: Amendment of section 77A—Licences and learner's permits to include photographs and other information

In addition to removing certain redundant words from subsection (1), this clause amends section 77A by inserting new provisions relating to information that may be included on licences and learner's permits.

An applicant for issue or renewal of a licence or learner's permit may request that the name and telephone number of an emergency contact person be included on the licence or permit. An applicant may also request that details of his or her blood group be included on the licence or permit. If such a request is made, the information must be included on the licence or permit.

The holder of a licence that does not include emergency contact details or blood group information may request that such information be included on the licence. If a request for inclusion of this information is made, the Registrar must amend the licence in accordance with the request. The Registrar cannot charge a fee for this service.

If the holder of a licence or learner's permit applies to vary the name or telephone number of the contact person, the Registrar must amend the licence or permit accordingly.

Clause 5: Amendment of section 136—Duty to notify change of name, address etc

This clause amends section 136 of the Act by inserting a new subsection. Under subsection (1a), if the person specified on a licence or learner's permit as an emergency contact person changes his or her name or telephone number, the holder of the licence is required, within 14 days of becoming aware of the change, to notify the Registrar of the person's new name or address.

Ms RANKINE secured the adjournment of the debate.

VICTIMS OF CRIME ACT

Mr HANNA (Mitchell): I move:

That regulation 167 made under the Victims of Crime Act 2001 entitled Fees, Applications Amended, made on 24 July 2003 and laid on the table of this House on 16 September 2003, be disallowed.

These regulations deal with the payment of costs for claims under the Victims of Crime Compensation Scheme. The Legislative Review Committee took evidence from the Attorney-General (Hon. Michael Atkinson MP) on 17 September 2003. At that meeting, the Attorney advised that he would reconsider the current policy on reimbursement of specialist medical reports obtained by victims in support of compensation claims. That was, however, not good enough for the committee, because the regulations do a serious disservice to victims of crime.

On 24 September 2003, the committee moved, by majority, to disallow the regulations. This will enable new regulations outlining a modified policy to be tabled in the parliament and therefore be made available for further scrutiny. I should note that regulations in a very similar form had been previously introduced and in the last session of parliament they were disallowed by this house. The Attorney went on to bring forward those regulations again but this time with a lowering of the legal costs to which legal practitioners are entitled in respect of victims of crime claims.

The subject of costs in these matters has rankled legal practitioners and the Law Society for many years. There has not been a cost increase in the fixed maximum amount to be paid to lawyers representing victims since 1988. So, a serious injustice is being done to members of the profession who are essentially doing pro bono work; that is, most of the work they do for victims of crime in respect of these matters could be considered voluntary, and done out of goodwill and respect for the rights of victims.

The government was good enough, at the end of last year, when it brought forward regulations to alter the regime for handling medical reports in respect of victims' claims, also to increase the rate of remuneration permitted for those people representing victims.

These two issues are quite separate, but were combined in the one set of regulations. Those regulations were disallowed by this house earlier this year purely and simply because the regime set out for the payment for medical reports in respect of victims' claims was objectionable.

I need to go into a little bit of detail about why the new regime is objectionable. The regulations as they stand say that the lawyer and victim of crime can go only to the victim's regular GP to get a medical report on the victim's condition. In a very large proportion of these claims there is a psychological or psychiatric element to the injury done to the victim. These matters can generally be properly assessed only by a qualified practitioner, whether they be a treating psychologist, or a psychiatrist, and so on.

In many other cases, the victim is transported to a public hospital immediately after the criminal attack which has done them injury, and so their general medical practitioner may have very little to do with the initial observations, or even the subsequent treatment, of the injuries involved. As a rule of

thumb, the more serious the injuries sustained and the greater the degree of psychiatric injury, the less the local GP will have to do with the treatment of the victim of crime.

So, in these matters it is essential to get a fair and reasonable appraisal of the extent of injury by going to an appropriate medical specialist. True it is that the existing regulations do allow such reports to be obtained with the consent of the government agency dealing with these claims. However, over the years legal practitioners and victims in the area have come to see that the agency concerned has an unbending attitude towards these claims. That is not just my opinion but is a point conceded by the Attorney-General himself.

Lawyers representing victims in this area do not have faith that the regime for obtaining medical reports is going to work properly. There is an added difficulty for the legal practitioners concerned, because they are actually bound by the professional standards they wish to uphold in recommending that appropriate medical reports be received. If they do not proceed to gather evidence that they believe is reasonably required to prove psychiatric injury, they may well be professionally negligent and may well be leaving themselves open to claims from victims, should those victims subsequently be dissatisfied with the amount of compensation gained either through negotiation or trial.

There is a serious disservice to victims because of the current regime for obtaining and getting payment for medical reports. It discourages victims from getting adequate evidence to back their claim. It makes it difficult for them to obtain adequate evidence to back their claim. In practical terms, what it means when the lawyer is uncertain of whether the government will reimburse payment of the specialist medical report is that the lawyer must ask the victim for the money in advance so that he knows that the report will be paid for. So, the lawyer will have to go to the victim and say, 'I will need $500, or $800,' or something of that order, 'in my solicitor's trust account before I request a report.' Otherwise, the lawyer himself or herself will be liable for meeting the cost of the report. For people working already well under the odds in terms of maximum payment for their fees, that would be grossly unfair.

So, victims are being asked to make up the shortfall created by these regulations as they have been implemented, and that is an unfair impost on victims. That is this Labor government being unfair to victims and effectively cutting back on victims' rights. That is what is unfair about these regulations, and that is why they actually go against the principle behind the act and the regulations. The act and the compensation scheme itself are there to help victims, not cut back on their rights.

I will now refer to the matter that was intertwined with this issue of medical reports and the payment for them, and that is the issue of legal practitioners' fees. After the regulations were knocked out by disallowance earlier this year, the Attorney brought the regulations forward again but without the increased fees for legal practitioners. It seemed that he was punishing them for at least some of them objecting to the manner in which the medical report issue was dealt with.

Indeed, when I asked the Attorney why he did not introduce regulations dealing with the fees issue separately from this thornier and more controversial issue of medical reports, his reply was, 'Because we are not soft.' In other words, the government wanted to protect its reputation for not only being tough on criminals but being tough on lawyers. Unfortunately, it was hitting not only the lawyers who do so much voluntary work for victims of crime but was actually hitting back at the victims of crime themselves. What an utterly unfair and unsatisfactory situation! With those remarks, I move that the regulations under the Victims of Crime Act be disallowed.

Ms CHAPMAN (Bragg): I thank the member for Mitchell for dealing comprehensively with this matter. I indicate that I wish to say a few words in support of this motion that seeks to disallow the regulations under the Victims of Crime Act 2001. It comes before this house really for a second time, in the sense that the government appears not to have got the message, and that is concerning. The two aspects I wish to confirm my support for in relation to the disallowance are the expectation that practitioners who undertake the work on behalf of victims of crime in this area will do so for little recompense and without any kind of recognition of the increased cost of undertaking this work since the late 1980s, which I think has been highlighted by the member for Mitchell.

Having been in practice myself before coming to this house, I am old enough to remember a time a couple of decades ago when the victims of crime legislation allowed for a maximum of only $2 000. I think the fee recovered for practitioners was $100, out of which one was expected to collate the evidence in support of the victim; file the necessary documentation; appear in court; call evidence, if necessary; make the medical witnesses usually available for cross-examination and, indeed, the victim; obtain judgment; and carry out the follow-up correspondence. Even in those days it was little recompense for practitioners. Regrettably, the situation has not improved. I say that because it is important, I think, for practitioners at least to be able to cover the costs in relation to pursuing these matters on behalf of victims.

Over the decades, there have been several increases in the amount of funds that are available to victims at a maximum level to recover. I am pleased to see that, but I do not see a commensurate or adequate recompense to the practitioners, and the ability to have sufficient funds to cover costs needs to be reviewed.

I think the last case I did was for a victim of multiple rape, when it was necessary to tender evidence from her general practitioner, her psychiatrist and two other specialists in relation to injuries that she had sustained from this multiple offence. It was a most obscene offence, and I will not detail it today, but the damage and injury to the victim was very substantial. On that occasion, it was necessary, as I say, to call for a specialist report, and the Supreme Court judge hearing the matter in fact wished to hear from the victim and one of the medical witnesses.

So, it can be a traumatic experience for the victim to have to go through, and to now effectively have regulations that continue to limit the availability of practitioners by virtue of the lack of funds to recover their costs only adds an added burden to the victim in obtaining legal representation, if they so choose, that is necessary and appropriate, on such difficult applications.

The second matter I wish to highlight—and I will give an example where it is necessary—is that in this regulation the government has an expectation that the victim's representative should be expected to obtain permission for the purposes of obtaining a specialist report, that is, prior permission that is necessary to enable them to recover the cost of obtaining that report. A legal practitioner has an obligation to collate

whatever is necessary to provide the evidence in support of the claim. If they fail to do so, they are remiss in their professional obligation both to their client as they have not properly acted for and represented their client and as an officer of the court.

The government is expecting that a legal practitioner will either obtain permission and incur the cost of doing that, face rejection of that approval and seek to have that aspect reviewed or, alternatively, go to the victim and ask them to place the money on the table—or in their trust account as is usually the case—before they can obtain that report, or personally cover that cost themselves. Either of those two options is not appropriate, and nor should it be imposed on either the practitioner or the victim. In circumstances where someone is a victim of crime, particularly if they have been caused loss of income through not being able to be employed due to an assault or an offence being committed against them through which they have sustained injury, usually they are left in a somewhat impecunious state. To then ask them to place sufficient funds to obtain a medical report from a specialist is onerous indeed and entirely inappropriate. It is also quite a concern for the party responsible for opposing or at least attempting to limit the application by the victim to have the right of veto in relation to that. That seems inconsistent and quite a conflict in relation to having the power to determine what evidence will be presented in the victim's case.

The other important aspect to remember here is that, without the requirement as it is proposed to be imposed by the government, there is a very effective means by which the court can keep contained the question of costs. It is open for the government, where it is properly acting, to minimise any abuse of costs having to be paid for by a person representing a victim. It can do so by challenging the recovery of costs to the judicial officer who is determining the matter. So, if there has been an abuse in the sense of obtaining unnecessarily reports identifying repetitive evidence, that can be legitimately disallowed on an application for costs. In other words, if the victim's counsel takes the view that it is necessary to have the general practitioner's report, a psychiatrist's report and a further psychologist's report—and we would call the running up of those disbursements is being incurred—it is quite proper for the judicial officer hearing the matter, or in a subsequent taxation of costs by a master or registrar of the court, to disallow those costs as being quite unnecessary and superfluous for the purpose of that application. It is not as though the government's agency would be left vulnerable and have to pay these legal costs when a successful application has been made, because clearly at all times it has the capacity to challenge in relation to a hearing on the question of costs.

I support the member for Mitchell's motion in seeking to disallow the regulations, on the clear understanding that it is inappropriate for this requirement to be in the regulations and that the agency has another appropriate remedy of which they can seek relief in the circumstance when a representative for a victim were to inappropriately attempt to seek to recover costs which are, as I say, either repetitive or unnecessary in proving the case on behalf of the victim.

The house divided on the motion:

AYES (19)

Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Chapman, V. A.
Evans, I. F.	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hanna, K. (teller)	Kerin, R. G.

AYES (cont.)

Kotz, D. C.	Matthew, W. A.
Maywald, K. A.	McFetridge, D.
Meier, E. J.	Redmond, I. M.
Such, R. B.	Venning, I. H.
Williams, M. R.	

NOES (20)

Atkinson, M. J. (teller)	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.
Hill, J. D.	Koutsantonis, T.
Lomax-Smith, J. D.	McEwen, R. J.
O'Brien, M. F.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	Wright, M. J.

PAIR(S)

Penfold, E. M.	Rann, M. D.
Scalzi, G.	Key, S. W.
Hamilton-Smith, M. L. J.	Rankine, J. M.

Majority of 1 for the noes.

Motion thus negatived.

The SPEAKER: I advise members that, had there been an equality of votes, I would have voted in favour of the disallowance of the regulation to compel some further re-examination of the process in question on medical fees.

Mrs GERAGHTY: Mr Speaker, I draw your attention to the state of the house.

The SPEAKER: Order! I remind the minister and the member for Stuart that the attention of the chair has been drawn to the state of the house. There not being a quorum present, ring the bells.

A quorum having been formed:

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: STORMWATER MANAGEMENT

Ms BREUER (Giles): I move:

That the 49th report of the Environment, Resources and Development Committee, on Stormwater Management, be noted.

The Environment, Resources and Development Committee adopted this inquiry 10 months ago when it was decided to undertake an investigation into the management and potential for reuse of urban stormwater. The topics covered in this report range from the possible effect of stormwater discharge on the coastal environment to its capture and clean-up for storage in underground aquifers for future reuse. The current water restrictions make this report particularly timely.

The impact of the drought on the main water source for Adelaide, the River Murray, has drawn attention to the need to find alternate water sources. Although it is unclear how much stormwater is available in metropolitan Adelaide for reuse, the awareness that a significant volume of relatively clean stormwater flows out to sea each year is leading to new plans to try to utilise this resource. There is renewed interest in storage both in rainwater tanks for individual households and in aquifers for watering public parks and gardens and industry use.

Planning is a central issue, and the committee believes that there is a need for close involvement between all stakeholders involved in urban planning so that the future planning of

drainage, sewerage and water supply is carefully integrated. The stormwater planning amendment report has heralded the beginning of plans to change the way in which stormwater is managed across the metropolitan area. The committee recommends the mandatory development of stormwater management master plans for all councils. The committee believes that a metropolitan wide approach to stormwater management should occur and that responsibility for stormwater management in metropolitan Adelaide needs to be assigned to one body. The committee hopes that this will result in the maximisation of reuse opportunities, while reducing flood risks. Another outcome would be the minimisation of discharge to coastal areas.

The committee believes that aquifer storage and recovery should be encouraged. There is a need for the development by government of appropriate guidelines and regulations. There also needs to be a technical and economic evaluation of the potential for aquifer storage and recovery across the whole state, and a determination of the aquifer storage capacity in the metropolitan area. The committee believes that the considerable cost of purifying water to the highest standard is not necessary, when only a small percentage of use requires such a high level of purity. The use of potable water to flush toilets does not appear to be the best way in which to use this water.

There is potential for stormwater clean-up and harvesting within the city. The committee believes that water sensitive urban design concepts should be applied when new buildings are being constructed or established buildings are being refurbished. Streetscapes could be improved, with many wetlands that clean up water before it is released into waterways. Roof gardens could enhance the city, while reducing peak storm flows.

The cost of water was another issue raised by witnesses. Recycled water needs to be a cost-effective option, otherwise industry and the community will not be motivated to reuse water. The committee believes that the community should be encouraged to reuse water where it can. Enabling residents to easily obtain advice about connecting rainwater tanks for in-house use should be a priority for local government. All new houses should have some form of rainwater tank or rain saver guttering or fencing. New houses should have to achieve a water efficiency rating before approval. The committee believes that the obligations of developers in relation to stormwater management needs to be clarified in both green field sites and in-fill development. Developers need to be encouraged to embrace water reuse in house and suburb design.

Education is a key issue for stormwater reuse. The committee commends the water conservation partnership project for its on-ground and educational work with regard to water conservation. This work needs to be continued by state and local government to educate the community about how to conserve and reuse water.

During this inquiry, the committee heard from 22 witnesses and received nine submissions. As a result of this inquiry, the committee has made 35 recommendations, and looks forward to a positive response to them. I would like to take this opportunity to thank all the people who have contributed to this inquiry.

I thank all those who took the time and made the effort to prepare submissions and to speak to the committee. I think the members of the committee found that this was one of the most rewarding inquiries that we had undertaken and, certainly, we all felt as though we had learnt a lot throughout the time of the inquiry.

I extend my sincere thanks to the current and former members of our committee, particularly the Hon. Malcolm Buckby, who has been on the committee since its inception (we have lost a number of members since the last election), Mr Tom Koutsantonis MP, the Hon. John Gazzola MLC (who also has been on the committee since its inception), the Hon. David Ridgway MLC, the Hon. Sandra Kanck MLC, the Hon. Rory McEwen MP (who left our committee to become part of the cabinet), the Hon. Mike Elliott MLC (who left the committee to move on to greater pastures), and the Hon. Diana Laidlaw MLC (who also retired from this place and moved on). They were all very good contributors, and one can see from the names I have mentioned that the committee took some time with this inquiry.

I also particularly want to thank the current and former staff members of our committee, because without them these inquiries would never be finalised and we would never get the excellent reports that we are able to produce. In particular, I want to thank the committee Secretary, Mr Phil Frensham, for his work in getting our witnesses there and getting us organised in preparing this report, and Ms Heather Hill, whose excellent work in putting the report together made life so much easier for us. Heather has excellent research skills, and she has done extremely well with this report, of which we are very proud. I also want to acknowledge Mr Knut Cudarans, the previous secretary of our committee, who left during the time of the inquiry but who also was invaluable during his time with the committee. It is with pleasure that I present this report today. I believe that we have some very good recommendations, which we hope will be acted upon.

The Hon. M.R. BUCKBY (Light): I rise to support this report. This is one of the areas in which I have had a long interest. In 1991, when I was working for the Centre for Economic Studies at Adelaide University, I undertook an economic impact study of metropolitan Adelaide stormwater. During that study, I found some very interesting facts about the amount of water that goes down our drains in our streets and out into the gulf—in fact, it is about the same amount of water that the Adelaide metropolitan area uses in any one year. That struck me as being something upon which a government should focus.

There are a number of areas where people have undertaken good practice. For instance, back in 1991 Scotch College was harvesting water off the road, diverting it into a reversible bore and then, during the summer time, using the water in the aquifer to water all its ovals and gardens around the college. The bore cost some $20 000 to install, but the amount of stormwater that was able to be diverted and used again in the summer time meant that the bore was paid for within three years. So, first, the college saved itself money and, secondly, rather than using River Murray water for watering ovals, it was using water that had naturally fallen and was harvested off the street. Because the college was very high up in the catchment zone, it meant that the water had very few impurities in it and, as a result, when the salt content of the cracked rock aquifer from which the college was drawing its water was measured, it was found that the salt content had improved by 500 parts per million. So, it had a beneficial effect in more than one way.

Messages from SA Water over the years about people using rainwater—such that it contained dust and bird droppings and all sorts of things and was totally unhealthy for

people to consume—have also concerned me. I have been drinking rainwater since the day I was born, and nothing untoward has ever happened to me—touch wood. Some people may say that that explains a number of things! Say no more: I said it. I think we have to remember that SA Water is in the game of selling water: it is not in the game of encouraging people to conserve water, because that means that it sells less. As a result of that, whichever persuasion of government, there is then less money in the Treasury coffers. However, I believe that we have now reached a point (as I thought we had in 1991) where something should be done about the waste of a resource draining off the roofs of suburban homes, into gutters and out to sea—and that is even more critical now, given the state of the River Murray. As our population increases (as is happening in the metropolitan area), there is greater demand for water, and something should be done to save this resource.

There are many brilliant examples of this. In particular, I mention the Salisbury council, with the wetlands at Salisbury, the paddocks between the Main North Road and Para Hills, and other examples where the council has entrapped water, allowed it to settle for a period of time and then pumped it down into the aquifer—as is the case with the paddocks.

With respect to the wetlands at Salisbury, the council is now reusing or selling that water to Michell's wool, which is one of the largest users of water in South Australia and, as a result, saving the water coming out of the Murray. I commend the council for its foresight in going down that path.

There is, of course, another bonus from harvesting stormwater, and that is that the fresh water does not go out to sea. If one looks at the regression of seagrass since about 1945, one sees that each time an effluent plant has been placed on the coast, for instance at Glenelg and Bolivar, and those sorts of places, because of the release of water with a high level of protein in it, the seagrass has regressed. As a result, we are now ending up with more sand movement up and down the coastline of the Adelaide metropolitan area and a less friendly habitat for fish within the gulf. There are ongoing effects of this issue. Of course, with the reuse of effluent water by vignerons, and the Bolivar pipeline, some of that water is being taken up—which is excellent; and I hope it is all used.

I believe that stormwater has huge potential and, indeed, that every house in South Australia should have a rainwater tank. If the water is not used for drinking, it can be used to water pot plants, and so on. The government of the day should be looking at having systems within households that would allow grey water to be used to flush toilets, for instance, so that we are not using River Murray water in that sort of process. It would be a step in the right direction.

I was very pleased with the evidence that was brought before the committee for this report. I think it is a very valuable report for government, and I sincerely hope this government will take some action on this issue because there is huge potential, in both economic and environmental benefits, to the community from the reuse of stormwater.

Mr HANNA secured the adjournment of the debate.

PRIVATE MEMBERS BUSINESS BILLS/COMMITTEES/REGULATIONS

The ACTING SPEAKER (Ms Rankine): The chair rules that Notice of Motion No. 11 be withdrawn from the *Notice Paper* because it is identical to item 4.

PREVENTION OF CRUELTY TO ANIMALS (PROHIBITED SURGICAL AND MEDICAL PROCEDURES) AMENDMENT BILL

Dr McFETRIDGE (Morphett): I move:

That the Prevention of Cruelty to Animals (Prohibited Surgical and Medical Procedures) Amendment Bill be restored to the *Notice Paper* as a lapsed bill pursuant to section 57 of the Constitution Act 1934.

Motion carried.

TOBACCO PRODUCTS REGULATION (SMOKING IN THE CASINO AND GAMING VENUES) AMENDMENT BILL

Mr HANNA (Mitchell) obtained leave and introduced a bill for an act to amend the Tobacco Products Regulation Act 1997. Read a first time.

Mr HANNA: I move:

That this bill be now read a second time.

This is a health measure. It has some important side effects, which may assist problem gamblers, but in my contribution today I will concentrate on why we need this measure to be passed by this place as soon as possible as a health measure. Perhaps because the primary consideration in these matters is health, I should first refer to the Minister for Health. On 15 May 2001, the Hon. Lea Stevens said:

> This is the beginning of the end in terms of smoking in enclosed spaces where people have to work and have to endure passive smoking. Essentially, the danger of passive smoking is undeniable. The health effects are significant and life threatening and this is well documented. In fact, the hospitality industry may be one of the last remaining work places where every minute that they are working workers are exposed to significant health risks leading to early death. There is a fundamental right of all workers to work in a safe environment, and I would expect that every member of this house would agree with that statement.

Well, I wholeheartedly support the remarks of the Minister for Health about passive smoking. It has been some years now since smoking was outlawed in restaurants and, although there was some initial rankling from those who like to have a puff of a cigarette, it has been well accepted in our community. Now, most of us, particularly non-smokers, find it difficult to cope when even one cigarette is lit in a restaurant in a place where it should not be, because it seems so out of place. There is no doubt that if on the odd occasion people such as I feel irritation to our noses, eyes and lungs with the odd cigarette around, how difficult it must be for the bodies of workers who are in that sort of environment constantly—not just with the odd cigarette, but, potentially, a room full of people smoking tobacco.

As the Minister for Health said, the ill effects of passive smoking, leave alone the active smoking of tobacco cigarettes, is well documented. I need not go into the voluminous evidence on that point now. I simply take it as a given. I would be very surprised if any member in this place disagreed with that premise. If it is accepted, then the time for action is now. Recently, we had the benefit of a task force report. Further investigation of the issue is taking place, but before us already there is a report which states that smoking should be taken out of licensed premises.

The bill that I introduce today deals specifically with gambling rooms (otherwise known as gaming rooms) where there are poker machines; and it also deals with the Adelaide Casino. These are the two areas that are probably best known for gambling where one sees widespread smoking of tobacco

products. Of course, in TAB areas the same argument applies, and in those areas we have already done away with smoking to make them healthier for patrons and workers.

I heard the Secretary of the Liquor, Hospitality and Miscellaneous Workers Union, Mr Mark Butler, indicate that a survey of workers in the industry resulted in approval for a ban from 2005. My point in bringing forward this measure, in conjunction with the Hon. Nick Xenophon MLC, is that it is a measure which is relatively easy to implement. It does not take two years and it does not take five years: to get the plastic signs made up and put on the walls to declare areas such as gambling rooms and the Casino smoke-free zones can be done in a couple of months. That is what they should be.

An initiative has already been taken along these lines in Victoria based on a report known as the Barrington report, commissioned by the Tattersall's Club in Victoria, which specifically referred to some of the implications for problem gamblers. In part, the report stated:

> Smoking bans cut revenue because a cigarette break upsets the playing routine and allows a punter to consider that playing poker machines is a waste of money.

It also said:

> Smoking is a powerful reinforcement for the trance-inducing rituals associated with gambling.

So it can be expected that, apart from saving huge amounts of money in the long term through fewer calls on our various health care agencies, there will also be the benefit of problem gamblers being able to take occasional time out when they feel like a cigarette, and during that break they may well consider that they are losing more than they are winning and perhaps the rational course would be to go home and think about the extent to which they play poker machines. I am not talking about the run-of-the-mill people who want to go and spend $5 at a poker machine, but I am very concerned indeed about problem gamblers and the havoc that they wreak not only in their own lives but also among the innocents around them—namely, their family, friends, employers and so on.

When we consider the cost of the measure that I propose jointly with the Hon. Nick Xenophon today, we need to consider the savings that we can expect in terms of health costs. I have seen reports which suggest that in South Australia well over $1 billion of health care costs can be associated with smoking tobacco in general terms. That would include lost employment opportunities as well as actual health care. That is a huge sum of money and, of course, perhaps only a small subset of the people afflicted with tobacco smoking related illnesses are those who frequent gambling rooms and the Casino. Nonetheless, if we can make a better workplace and a better recreational facility (if that is what those places are) for the other patrons, we will be doing a great service to all who frequent those premises.

So, I put this forward as a health measure. It will reduce harm to the health of people who frequent gambling rooms in licensed premises or the Casino, whether they be patrons or workers. It is a measure which in the long term will save money. I am less concerned about the immediate drop in revenue to licensed premises owners, the Casino owner and the state Treasury than I am about the long-term saving in health care costs, whether they be counselling costs, hospital costs, chemotherapy costs or whatever. It is a proposal which can be implemented easily and quickly, and it ought to be.

I will briefly refer to the clauses of the bill. Clause 4, the definition clause, is self-explanatory. Clause 6 specifically refers to smoking in the Casino and makes it an offence, with an expiation fee of $75, for a person to smoke in the Casino except in a declared smoking area. That same clause goes on to refer to smoking in gaming areas and rooms: that refers to the gambling rooms of licensed premises where poker machines are played. It also specifically takes account of efforts to get around the provisions by setting up an area where people can watch the playing of the machines while having a smoke, so it refers to areas overlooking places where people play machines. That was necessary because of the interstate experience of people trying to get around the provisions of such legislation. In respect of those licensed premises, the expiation fee for an individual who breaks the prohibition against smoking in the prohibited areas is $75. With that explanation of the clauses, I commend the bill to the house.

Mr MEIER secured the adjournment of the debate.

ECONOMIC AND FINANCE COMMITTEE: HOLDFAST SHORES DEVELOPMENT

Adjourned debate on motion of Ms Thompson:

That the 45th report of the committee on the Holdfast Shores development, be noted.

(Continued from 24 September. Page 273.)

Dr McFETRIDGE (Morphett): I read with great interest the report on Holdfast Shores Development. As the member for Morphett, this whole development affects me very closely, and the saga behind the unfair criticism of this development is something which I continually have to correct. Part of that correction is going to be reading today from some of the evidence that was given to the Economic and Finance Committee. Reading the report does not give the whole picture, but reading some of the evidence that was given to that committee by senior public servants and senior consultants was something that I was glad to see. I will be reading into *Hansard* some of the evidence from Mr Rod Hook and Mr David McArdle, and I apologise if I read quickly but I will give *Hansard* my notes afterwards—I have limited time.

In her introduction, the presiding member notes that she will just give a bit of background. She continues on, and says:

> We also know that the state needs projects similar to this development.

And isn't that true. The evidence that Mr Hook and Mr McArdle gave verifies that statement 100 per cent. In his evidence, Mr Hook gave an introductory comment, and I will read out from his statement here:

> It is perhaps worth putting on record that in October 1994 we inherited a site with the following characteristics: our major tourist access link, Anzac Highway, to Adelaide's main tourist beach finished in a potholed car park, a car park that was taken over by less than desirable elements as a place for burnouts and other related activities; adjacent to that car park was a sailing club that was in a poor state of repair and some pretty dilapidated moorings in the Patawalonga.
>
> Immediately to the north we had what was being described nationally as Australia's most polluted waterway, where any form of human contact activity had been banned. We had boat launching facilities in the area that did not work and were an accident waiting to happen. The facilities were notorious for the sandbar across the mouth of the Patawalonga that prevented access to and from the sea under low tide conditions, and for the inadequate parking areas to support the facilities.

Mr Hook continues:

We had our Sea Rescue Squadron located adjacent to our main airport, but with a real prospect that it would be unable to launch in the event of an emergency at sea unless the tides were favourable. We had land at West Beach that included an old rubbish dump that had never been rehabilitated, and that land was accordingly sterile. We had a sewage treatment plant that needed upgrading. We had an airport with a runway that was too short.

Moving in the other direction, we had a 1950s-style entertainment complex that was tacky, uninspiring and only operated a couple of months of the year, and that was presided over by the structure known as Magic Mountain.

Mr Hook went on to say:

But more than all that, we had a site that really had become the symbol of failed development in Adelaide since the early 1980s, where several developers presented environmental impact statements on five previous schemes, and Glenelg was being used to illustrate the point that development projects could not be made to work in Adelaide.

Mr Hook continues:

We had to improve the amenity of the Patawalonga. . . We had to improve recreational boating facilities.

Mr Hook's evidence continued:

The end result is that the development proceeded and is substantially but not fully complete. . . It has been achieved with minimal government financial support. Examples of comparable projects in other places suggest that for these projects to happen there is a general rule of 50-50 public-private funding that may be needed. Darling Harbour, we understand, was about $100 million in public funds to support $100 million of private sector development.

We should also understand (and I think it will be generally recognised in the development industry) that the Glenelg/West Beach development was probably one of the most complex projects undertaken in Australia, with the issues that we had to grapple with of an environmental community planning nature, and the mixture of issues that had to be addressed.

Mr Rau, one of the members of the committee, asked Mr Hook:

You said projects of this type are generally more expensive than this one was in terms of public expenditure. Am I correct in understanding that your remarks in that respect are based on a government expenditure in the order of $47.48 million between 1994 and 2003?

Mr Hook's answer was 'Yes'. Mr Hook went on to say:

The total capital expenditure, including work on the Patawalonga, including the Barcoo Outlet, of $47 million to $48 million—of that order.

Mr Hook continued:

It includes all that and a return, I think, which is now probably something like $200 to $250 million worth of private sector investment in the area.

Mr Rau asked another question of Mr Hook, as follows:

Are you able to tell us how much land was, in effect, removed from council or trust property and deposited into the project by that process?

Mr Hook's evidence is very interesting to read here. He said:

The land that is just north of the Patawalonga mouth, including the land then on the south of the Patawalonga mouth (which included the car park), the land that was occupied by the Glenelg Sailing Club building and the Lacrosse Club building, the site that was occupied by the old entertainment complex, the site which includes the car park and is still the car park in front of Magic Mountain and the police station site generally are the areas included as the potential development area of the project. That came to approximately six hectares of land.

The process we went through was to separate the grassed areas of Colley Reserve and Wigley Reserve Memorial Gardens, and they were specifically excluded from the development site. It was agreed from day one that those grassed areas needed to be retained. But approximately six hectares of land in that area was identified as part of the project site, at that stage excluding Magic Mountain. With the reconfiguration of the area and the reshaping of the land, including the construction of the marina basin in what was the car park at the end of Anzac Highway, and the repositioning of the building platform further out to sea, we finished up with about nine hectares of land, instead of that six hectares.

Mr Rau went on to ask Mr McArdle the following question:

Can you tell us what the value, in current terms, of approximately nine hectares of beachfront property would be?

Mr McArdle, in his evidence said:

To create the allotments, first of all for nine hectares, as Rod suggested, three of those were in the sea, so that is reclaimed land.

Mr McArdle's evidence went on as follows:

At the time of the original feasibility, when the master plan was tabled, I was asked to cast an eye over some assumptions. On or about that time (I am not sure of the exact dates), Jones Lang Wootton (now Lang Lasalle) was commissioned to value the sites that would be created from the works. At that time, Jones Lang totalled it at around $11 million, would be my guess.

Mr Rau asked if that was for the six or nine hectares. Mr McArdle's answer was as follows:

It was the end value of the created allotments.

Mr Hook then added that it was for nine hectares. Mr McArdle's evidence continued:

It excludes the marina basin. The site value excludes the marina basin, so it is not actually either, because you create the open space of the marina and there are open spaces created. What came out of that was some seven to nine sites, depending upon how you amalgamated them. So you define the site which we called the entertainment precinct and the hotel precinct, and so on. So each of those sites were determined to be $11 million. I have a copy of that valuation in my files.

Mr McArdle continued:

I think the final cost of creating the marina basin, which is more than projected, was $18 million. At that time, though, the estimate was more in the order of $13 million or $14 million. In a simple mathematical relationship, you would say the value of the site was minus $3 million. I know that is difficult to comprehend, but there are often projects which are not economic—where the development cost is more than the value.

Mr Hook went on with some further evidence, as follows:

We did not at any stage of this project parcel together a development site valued at whatever figure you might like to attribute to the evaluation, hand it over to the developer, and say, 'You now own it. It is up to you to do what you want.' We assembled a site and we gave a right to a development company which was accepted through a public process under a development agreement to develop certain infrastructure, return certain areas to the public (which had to be landscaped) and sell certain rights which were to pay for it. That whole analysis is the very essence of this project. You really cannot take a position that says X million dollars worth of public land has been handed over for nothing; it does not work that way. If anything, the value is zero, because the cost to create—

Mr Hook continued:

The land, which is commercial land under the Marina Pier Building and Light's Landing, is still owned by the minister and we have not sold it.

The evidence goes on for many pages and makes very interesting reading. I suggest that anybody who has an interest in what has gone down in the history of Holdfast Shores should go to the evidence of the Economic and Finance Committee and see what was said. The Presiding Member asked:

We have information that property in Glenelg has increased by 85 per cent compared with a city-wide appreciation of 30 per cent.

Mr McArdle's answer was:

Holdfast Shores became a stimulus for interest and attracting people to the coast.

Don't we see that ripple effect right around the coast? Holdfast Shores was the catalyst for the whole of the development around South Australia's coast. What has that been worth to South Australia in development? What has it been worth to the state government in stamp duty? This government should get the chip off its shoulder about Holdfast Shores and get on with accepting the fact that it is something that the state needed. It is far better than the Jubilee Point development that would have cut the coast in half and would have gone right out to sea, with a huge marina at sea. Sure, sand management problems need to be addressed, but that would have been so whether nothing was done or whether something was done, and they certainly would have been worse had Jubilee Point been commenced.

I would like to see the continual criticism of the development of that site stopped. Sure, it needs to be finished off, and there are questions that we need to answer.

Mr O'BRIEN (Napier): On Wednesday 24 September, the member for Reynell, Chair of the Economic and Finance Committee, moved that the 45th report of the committee, on the Holdfast Shores development, be noted. In presenting a very comprehensive precis of that report, she ran out of time. The member for Reynell has asked that I read into *Hansard* the concluding remarks contained in her speech. So, my comments today may appear a little disjointed, but they are actually the final four paragraphs in the member for Reynell's speech as follows:

> Other negative impacts were associated mainly with the construction phase of the development and are not considered to be ongoing impacts, such as noise and odours during dredging, and disruption to beach users during construction of the Barcoo Outlet.
>
> Having examined some of the financial, environmental and public amenity issues associated with the Holdfast Shores development, the committee recommended to the Minister for Infrastructure that:
>
> (1) future development projects ensure adequate community and stakeholder engagement in order to understand and incorporate public values; and
>
> (2) the minister investigate the future possibility of cost sharing by the government with people who will predictably benefit from the development activity.
>
> It should be noted that three members of the committee (Hons Iain Evans, Graham Gunn and Mrs Karlene Maywald) dissented to the inclusion of the second recommendation.

The Hon. W.A. MATTHEW (Bright): Due to the understandable time constraints on debate in the Assembly, my colleague the member for Morphett was not able to put on the record all the comments that he wished to make. I would like to take the time that is available to me to continue to make some of the points that my colleague would otherwise have made. My colleague was detailing to the house some of the evidence that was provided to the committee in relation to the Holdfast Shores development. I would like to also put on the record the following. The record shows and that Mr O'Brien asked a question of Mr McArdle as follows:

> You made reference to the fact that you thought the development might have kick-started further developments along the Adelaide coast. Do you have a feel for what the completion of the project was going to do for the Glenelg retail precinct? Have you done any modelling on that?

Mr McArdle, who, I might add, is a very respected person in Adelaide with enormous experience in commercial real estate and a good knowledge of retail and commercial leasing space figures, replied:

> We did look at it, because the first feasibility study that the consortium put forward had a lot more retail in it. In fact, I am guessing, but it was over 20 000 square metres of retail. Every ground floor along the way was retail. At the time, we were very nervous about the extent of retail. The Jetty Road precinct in total was about 30 000 to 35 000 square metres, and that includes large spaces for food—Coles and Woolworths. To have a large amount of additional retail down there, I advised was a bit dangerous. As a result, it has been pared back significantly, so there is retail only under the Marina Pier, some in the form of food under the new hotel and, again in the form of food, if it happens, in the entertainment precinct.
>
> Those activities generally are not in competition to the Jetty Road precinct. There is a food component in Jetty Road, but the number of visitors in the area, the increase of tourism in the area should have a flow-on benefit, and obviously there is a significant increase in the number of residents in the locality, long term and short term. Again, there should be a flow-on benefit to the retail sector.

Those are very important words of wisdom. As I said, Mr McArdle has enormous experience in this area. I have the privilege of knowing him personally and, as minister, had him undertake some important work for government. I respect his opinion enormously, and I believe that this was important evidence that he provided to the committee. He was able to demonstrate that, based on his expertise, there had indeed been changes, and changes of benefit, to the plans that have been put forward. My colleague the member for Morphett has ensured that this sort of information has been widely disseminated within the community that he so ably represents.

I also wish to draw the house's attention to a question that was asked by Mr Rau—again of Mr McArdle—as follows:

> Mr Hook's assessment of the value of the land is zero. Do you share that view, in your professional capacity?

My erstwhile colleague, the member for Enfield, also clearly respects Mr McArdle's viewpoint. Mr McArdle replied:

> His comment was whether prior to development the land's value was zero. I would qualify his response, because on the plan as defined, I would support that its value would be negative. In the real world, you would then go through an iteration process. You would change the plan until you could support the figure for the land. The issue here is that, when you are defining site value, you have to define what you are going to put on it. If you zone something for retail use, it will potentially have a higher value than if it is for residential use or industrial use. The land value reflects what you can put on it. The master plan is actually quite restrictive of what you can put on these sites, versus if you were on a Colley Terrace site, and that is demonstrated by the density being achieved in the Liberty Building versus Marina Pier.
>
> If you wanted an answer about the value of the completed site fronting the esplanade, once the whole project is completed, the next question would be: and I put six levels of residential on it? Am I restricted to putting an entertainment precinct on the site? Because the feasibility of the entertainment precinct in the penalties for providing car parking could well mean that that site has a negative value now. If you have to replace existing car parking, create new car parking and restrict your development to a certain height, the whole process of value for the site depends on what you are allowed to put on it; and we have restrictions on density throughout this whole project, which was part of the master plan.

I believe that Mr McArdle quite clearly was able to clarify that. So, the member for Enfield responded sensibly:

> What would you say it was worth now?

Mr McArdle response was:

> In today's dollars I would have to go back and do feasibility studies. I cannot give a rate per square metre approach. It is not comparable sale approach. You would have to ask: what can I sell the completed product for today? You take off the construction cost and come back to what we call a residual value. It is extremely volatile. It is a question of the quality of the buildings—the whole thing. I would suggest that we have had an increase in value with existing uses, but it may be 50 per cent.

The member for Enfield qualified, as follows:

That is 50 per cent of zero?

Mr McArdle's response was:

No, on the completed property.

Mr Hook further clarified:

I had a discussion with a journalist on that question the other day. If you wanted to buy my property, which includes a house, you might be prepared to offer $300 000, which essentially means that you have a site value of, say, about $100 000 and a house worth $200 000. If I said to you, 'You are welcome to buy it but the only thing you can do on my property is to knock down the house and maintain it as a public park,' how much would you pay for it? I would suggest, zero. You'd say that the value of that to you is zero because the use is constraining and has completely changed the value of the property.

Those comments from Mr McArdle and Mr Hook quite clearly highlighted, in their expert opinion, the value of the property both before and after the development, and clarified that value subject to any constraints that might otherwise have been placed on the land.

My colleague the member for Davenport also sought further clarification and made the comment:

You could not build units on it because it was zoned 'car park'?

Mr Hook replied:

That's right. Essentially, it has no economic value. We spent something like $14 million, $15 million, on the project creating the building platforms, which then gave that land some value because there was an opportunity to develop the project, agreed through the master plan. The way in which you work out the new value is, as Mr McArdle says, on a residual value basis: how much would someone spend to create the project, and then what could you sell it for? If there is a profit you could say that is the profit on the land. That may be the situation some years down the track but it is not the situation now.

Again, that clarifies the situation. It is worth pointing out to the house that my college the member for Morphett has been absolutely vigilant in his pursuit of aspects of this project. He has continually brought to the house issues associated with this project, highlighting the positives, highlighting where areas need rectification, representing the views of his constituent in this house, absolutely adamant about the aspects of the completion that are needed for this project. He has put on the record his viewpoint in relation to Magic Mountain. He has firmly put on the record his viewpoint in relation to the height of any further development and, in doing so, has strongly represented the views of his constituents.

The opposition can only hope that the government, particularly the Minister for Administrative Services who has, through his ministerial responsibilities significant influence on this project, will listen to the words of wisdom from the member for Morphett. They are words of wisdom that have been gathered from close consultation with his community, from close work the City of Holdfast Bay and with the elected representatives of the City of Holdfast Bay. If the minister is able to deliver the wishes of the member for Morphett, we will finish up with a project that is more in keeping with the wishes of the residents.

There are millions of dollars of private investment in this site. Many hundreds of thousands of dollars of stamp duty and land tax have been paid. The state government has had some pretty big dollar benefits to its budget from this project, and it now has an opportunity to deliver some of that benefit back to the South Australian community—not just the people of Morphett or residents of the City of Holdfast Bay but to the whole state. We all know in this place that that area of beach is used by all South Australians.

Time expired.

Mr RAU (Enfield): Were it not for the fact that I was mentioned in dispatches, I would not be rising on this occasion. The member for Bright drew some attention to elements of my remarks in the Economic and Finance Committee. I feel that I should respond at least a little in relation to that. First of all, the member for Morphett's name has come up in relation to this. In the time that I have been here—and I do not want this to appear on one of his brochures at the next election—I have been impressed by the member for Morphett's dedication and earnest desire to do all things possible to promote his electorate and its features. He is fortunate enough to have the Bay as part of his electorate.

I have heard him in this cause say about the Bay things which are completely defensible such as how marvellous it is to hop on a tram and head down to the Bay. We have heard quite a bit about trams and light rail from him. That is good stuff. Like a good salesman, he has also adopted the approach of being able to put little nuggets inside the mayonnaise that you do not really realise are there until you chew on them. Using this technique, I believe he is able to advance arguments which are, in the cold light of day, otherwise impossible to advance. Nonetheless, he advances them in a brazen fashion; for example, the Barcoo Outlet is a top spot. We have heard things like that from him. His attitude is that you can drink the water yourself. I do not think that he has actually said that, but that is reading between the lines of what he is saying.

An honourable member interjecting:

Mr RAU: I said that he hasn't said it; I'm reading between the lines. Listening to him one day here, I had the impression that he was almost advocating that we advertise the Barcoo Outlet and its healing water to foreign tourists to bring them here for some sort of spa-type arrangement, where they could be bathed in E. coli and somehow, therefore, reinvigorate their immune systems. I want to make it clear: I say this in great support of the member for Morphett, because, if a person can defend the indefensible because he believes in his electorate, that is a good thing. I give him 10 out of 10 for that. Nothing I say now is meant in any way to detract from the fact that he does a magnificent job in defending the indefensible.

However, I now need to move on to the real point of my remarks. Mr Hook appeared before the committee of inquiry with a couple of other gentlemen, and they made a polished presentation to the committee: it was smooth and had a lot of polish to it. I thought, 'I'll give these chaps a few questions and just see how they deal with them.' It was like a scene from *Return of the Jedi*. As soon as I fired one of my questions at Mr Hook, out came his light sabre. Whack! My question was deflected off into the corner. It was very hard to touch him. He had a light sabre. You could hardly even see it coming out. I got the impression that, if I spent long enough with Mr Hook, he would have me believing that there was a Father Christmas. He is the sort of fellow who I believe should be in sales. He could sell sand to our friends in the Middle East. He did a remarkable job, showing himself to be a Jedi knight type individual. I was very impressed with Mr Hook, I would have to say. If I have to sell a lemon, I will get Mr Hook, because in my humble opinion he is the man to sell a lemon. I have never seen a job like it.

In relation to the lemon sales pitch, let me just explain to the house what he said. I inquired of Mr Hook about some several acres of land in what I naively thought was a prime

position in the member for Morphett's beautiful district, right on the beach, including beautiful open park areas and sandy beaches. It was magnificent. It is the sort of stuff postcards are made of; really it was—this magnificent area which was not only pristine and beautiful but which included open public space. How valuable is that in this day and age?

Let us pause there. We are talking of open public space on the beach in one of the most beautiful electorates in South Australia, to quote the honourable member—acres and acres of it. I had a clever question for Mr Hook. I asked him what he reckoned it was worth. Do you know what he said? Members will not believe this! He said that it was worth nothing, zip, not a sausage! I said that I would not mind buying it at that price as I reckon I would have got a pretty good deal. He said that, no, it was worth nothing. On some figures it was worth less than nothing, which I found intriguing, but there you are.

When you calculate the cost benefit analysis of the Holdfast Shores development, one of the elements I would have thought was relevant, if you were working out how much the development would cost, was how much the land cost. Most developments go on something and it is called 'land'. What is the land worth?

The $30 million of taxpayers money that went into the development did not include any money for land because the land did not have a value—it was worth nothing. We should be grateful they did not take money out of the $39 million on account of the negative value of the land. I asked Mr Hook and his friends a couple of questions, scratching my head, puzzled, namely, why it was that these acres of prime public land with beautiful Norfolk Island pines and lovely lawns were worth nothing. There was once a funfair there, where you could take your family. You could drive to the end of Anzac Highway and see the beautiful vista of the beach. There used to be icecreams, children walking around with balloons, the sound of hurdy-gurdies, the organ and the beautiful ferris wheel. On a warm balmy evening one could go down there with the children—it was priceless culture. How much am I bid for this Mr Hook? Zip!

When the member for Bright decides he will quote from the word according to Hook, I am a little incredulous about this element of it. Let us think about what we have lost. We have lost irreplaceable public space and what do we have instead? We have some large cement-looking monoliths, which obscure the view for anybody except someone lucky enough to have bought one on the correct side of the monolith. You cannot see the beach from the road, the footpath, the lawns or the pine trees. Perhaps if you scaled Magic Mountain you would get a bit of a view of things, but that is difficult and you have to slide down quickly once you get there. There is really no option. We have completely lost the view. We have lost the hurdy-gurdies, the music, the fairy floss and the toffee apples. We have some monoliths—that is it.

Mrs Geraghty: Wind tunnels.

Mr RAU: Yes, wind tunnels. I am sure that they will look as good to the eye in 2030 as do the cream brick monstrosities we have dotted around our suburbs now. Let the future decide the answer to that proposition.

I come back to the original point I was trying to make. The member for Morphett does a sterling job and defends his electorate. I know from personal experience that his constituents have spoken highly of his efforts. I know of Mr Brown and his cat and the good work the honourable member has done on that job, but he also defends the indefensible. The Barcoo outlet, the sand carting and the wanton destruction of public open space at a valuation of zip to the public is indefensible. It is there now and this government cannot do anything about it. The minister is left with a plate of special sandwiches to deal with.

Time expired.

Mr HANNA secured the adjournment of the debate.

PUBLIC SERVICE, SALARIES

The Hon. R.G. KERIN (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.G. KERIN: I wish to correct the record. Last night the Attorney made a ministerial statement at the end of the day—

The Hon. M.J. Atkinson: Bagging you.

The Hon. R.G. KERIN: Yes, bagging me, claiming that I was mistaken with figures I quoted in the house yesterday. Within his statement he said, 'I am advised by departmental officers that they have guessed the source of the leader's error.' The figures I quoted were direct from the Auditor-General's Report, which means that the Attorney was accusing the Auditor-General of having made a mistake. He said that I had claimed that the number of public servants on over $100 000 had increased from 76 to 124 and he said that both these figures were incorrect. They are the Auditor-General's figures that he was criticising and not mine. He went on to claim that there had been a decrease in the numbers, which was a good spin at the time, and he said that I had demanded to know why the numbers had increased by 60 per cent.

In fact the Attorney-General's department had seen a 5.4 per cent reduction in senior staff, he stated. He went on to say, 'I am advised by the departmental officers that they have guessed the source of the leader's error.' I would have thought that it would have been obvious that the figures were not the leader's error, but were straight out of the Auditor-General's Report. The Attorney fails to acknowledge that he knew that the figure was straight out of the Auditor-General's Report, as he should have known, because the line of questioning yesterday was based on the report. He deliberately choose to try to discredit not just the figures but me, the Auditor-General's Report and whatever else. He presented no figures—

The Hon. M.J. ATKINSON: On a point of order, Madam Acting Speaker, this is no longer a personal explanation. The leader is debating the matter and making accusations against me that can only been made by substantive motion.

The ACTING SPEAKER (Ms Thompson): I uphold the point of order: it is clearly debate. Leader, do you wish to continue or have you completed your explanation?

The Hon. R.G. KERIN: Just to say, Madam Acting Speaker, that I await the apology to myself and the Auditor-General's staff, or for the Attorney-General to prove both myself and the Auditor-General's Report wrong.

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

STATUTES AMENDMENT (CO-MANAGED PARKS) BILL

The Hon. M.D. RANN (Premier) obtained leave and introduced a bill for an act to amend the Maralinga Tjarutja Land Rights Act 1984 and the National Parks and Wildlife Act 1972. Read a first time.

The Hon. M.D. RANN: I move:

That this bill be now read a second time.

The Statutes Amendment (Co-managed Parks) Bill 2003 sets out arrangements under which the Unnamed Conservation Park, located in the north-west of the state, will be managed, along with the establishment and management of future co-managed parks. This is a first for South Australia. The planned handover of the unnamed conservation park and the provision for co-management of the park will require legislative changes to both the Maralinga Tjarutja Land Rights Act 1984 and the National Parks and Wildlife Act 1972. This is the largest land rights legislation since the handover of the Maralinga Tjarutja lands back in the mid 1980s.

The Unnamed Conservation Park was proclaimed in 1970, and forms a 21 000 square kilometre part of the Great Victoria Desert and Nullarbor regions of South Australia—and, from memory, that is not much smaller in land area than the size of the island of Sicily. The park takes up parts of the Great Victoria Desert along the Western Australian border and the Nullarbor Plain north of the transcontinental railway line.

This park is of significant biological and conservation value. It is home to a number of rare species, and species restricted in range. It is also of great cultural significance to its Aboriginal owners, many of whom live in Oak Valley to the east of the park, and Tjuntjuntjarra to the west. The park features the Serpentine Lakes, an ancient palaeozopic drainage channel, as well as archaeological deposits and landforms important to them. The land is pristine, absolutely natural bushland, which is now recognised as a biosphere reserve, and has open woodlands, shrublands of mallee, marble gum, mulga and black oak.

This will be the largest land rights handover since the Maralinga lands in 1984, when a vast area of land was returned to its traditional owners under the Maralinga Tjarutja Land Rights Act 1984. The member for Stuart will remember the work that he and I put into the handover ceremony in the early 1990s, when we handed back the Ooldea lands to the Maralinga Tjarutja people. At that stage those lands (which were, of course, very sacred to the Maralinga Tjarutja people) consisted of about a 3 000 square kilometre tract of land: this one is 21 000 square kilometres.

Since the Maralinga handover in 1984, the ownership and management of the Unnamed Conservation Park has been under discussion. Talks began in October 2002 about the possibility of transferring the park to its traditional Aboriginal owners under the Maralinga Tjarutja Land Rights Act 1984, while retaining the status of the land as a conservation park, preserving public access rights and making sure there would be no mining in the park. Negotiations have also addressed the long-term cooperative management of the park by its Aboriginal owners and the Department for Environment and Heritage. These negotiations have included state government representatives and representatives from Maralinga Tjarutja, a body corporate of whom all traditional owners are members, and people from the Tjuntjuntjarra Western Australia (representing the Pila Nguru Aboriginal Corporation). The people from Tjuntjuntjarra were identified in an anthropological report of 2003 by Scott and Annie Cane as those who should be consulted as traditional Aboriginal owners of the park.

The Department for Environment and Heritage has been involved in fostering Aboriginal partnerships in park management for some time. The bill includes provisions for the co-management of the Unnamed Conservation Park as well as a generic scheme for the possible co-management of other national and conservation parks under the National Parks and Wildlife Act 1972. The draft bill was released for consultation with representatives for Maralinga Tjarutja, Pila Nguru Aboriginal Corporation, the Aboriginal Legal Rights Movement Incorporated and the Conservation Council of South Australia.

I think that this is a terrific advance for the protection of the environment and for the recognition of traditional ownership, and also as an act of reconciliation. Today is the 50th anniversary of the first nuclear test at Maralinga, and I believe it is most significant that on this day we are introducing this legislation to hand back a sizeable amount of land to the traditional owners. I seek leave to have the reminder of my second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *National Parks and Wildlife Act 1972* will be amended thus:

Categories of Co-managed Parks

Section 35(2) of the *National Parks and Wildlife Act 1972* will be amended to reflect the possibility of Aboriginal ownership of reserves under the Act.

An Aboriginal-owned National Park or Conservation Park may arise in two ways. It may be the result of the hand back of an existing Crown-owned National Park or Conservation Park and vesting in the traditional Aboriginal owners under a relevant act, as is proposed by this measure.

Alternatively, it may arise as a result of a request by people representing the registered proprietor of Aboriginal owned land, (for example, land vested in the Anangu Pitjantjatjara body corporate under the *Pitjantjatjara Land Rights Act 1981*.)

In the latter instance, the land would also need to be proclaimed as a new National Park or Conservation Park under the *National Parks and Wildlife Act 1972*.

As well as providing for the co-management of Aboriginal-owned Parks, the legislation also provides for the co-management of National Parks or Conservation Parks held by the Crown, by a co-management board, and the co-management of National Parks or Conservation Parks held by the Crown under an advisory management structure, as appropriate in the circumstances.

Co-management Agreement

The Bill amends the *National Parks and Wildlife Act 1972* so that the Minister may enter into a co-management agreement with the registered proprietors of land, (or the body in which the land is to be vested) in the case of Aboriginal owned parks, or 'a body representing the interests of the relevant Aboriginal group' in the case of parks held by the Crown. Entering into a co-management agreement (with or without the transfer of title in relation to the underlying land) will not change existing arrangements in relation to third parties.

The co-management agreement may address matters including:

- the constitution of the board (if one is to be constituted);
- the preparation and implementation of a management plan for the park;
- funding arrangements; and
- employment of staff and dispute resolution.

A co-management agreement may also provide for its variation.

A co-management agreement over land that was Aboriginal-owned land before the park was constituted, may be terminated unilaterally, provided any minimum time period specified in the agreement has elapsed. In this case, the termination of the co-management agreement will also result in the land ceasing to be a park under the *National Parks and Wildlife Act 1972*. This reflects the former status of the land as Aboriginal-owned land.

A co-management agreement over land that was a Crown-owned park before becoming an Aboriginal-owned park, such as the Unnamed Conservation Park, can only be terminated by agreement between the Minister and the registered proprietor of the land.

In this case, the termination does not affect the status of the land as a park under the *National Parks and Wildlife Act 1972*. Should the agreement be terminated the land would then continue to be managed by the Director as a park under that Act, although the underlying title to the land would remain vested in the Aboriginal owners.

A co-management agreement over a park that is constituted of land held by the Crown may only be terminated by the Minister. Again, the status of the land as a park is not affected.

Co-management Boards

The Bill amends the *National Parks and Wildlife Act 1972* to provide that the Governor may establish by regulation a co-management board for a co-managed park.

The regulations establishing a co-management board for a co-managed park constituted of Aboriginal-owned land must also provide that:

- the board has a majority of members who are members of the relevant Aboriginal group;
- that it be chaired by a person nominated by the registered proprietor of the land; and
- that the quorum of the board has a majority of members who are members of the relevant Aboriginal group.

The ownership of a co-managed park constituted of Crown land will remain with the Crown, but any board of a co-managed park will be appointed following negotiations with the relevant traditional owners.

Where a co-management board is established for a co-managed park, the park is placed under the control of the board. Certain other powers of the Minister and Director are also given to the board such as the right to set entry fees for the park. It will be decided on a case-by-case basis whether or not a board is to be constituted for a Crown-owned, co-managed park.

A co-management board may be dissolved if the co-managed park is abolished or the co-management agreement for the park is terminated. A co-management board may be suspended if the Minister is satisfied that it has continually failed to properly discharge its responsibilities.

Aboriginal Hunting and Food Gathering

Another important amendment affects section 68D of the *National Parks and Wildlife Act 1972*. This amendment provides for the regulation of Aboriginal hunting and gathering by the co-management board for the relevant park, or in accordance with the provisions of the co-management agreement for the park if there is no board.

Amendments to the *Maralinga Tjarutja Land Rights Act 1984*:

The provisions constituting a board of management for the Unnamed Conservation Park have been included in the *Maralinga Tjarutja Land Rights Act 1984*. Although these provisions substantially replicate those included in the *National Parks and Wildlife Act 1972*, this was done to meet the specific request of Maralinga Tjarutja that the co-management board for the Unnamed Conservation Park be established under their Act.

This Bill also amends the *Maralinga Tjarutja Land Rights Act 1984* to vest the Unnamed Conservation Park in Maralinga Tjarutja, to provide for uninterrupted public access to the Park, and to exclude the application of the mining regime in that Act from the Unnamed Conservation Park. It is anticipated that Maralinga Tjarutja will request that the name of the Park be changed to reflect its significance to its traditional owners. I commend this Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Maralinga Tjarutja Land Rights Act 1984*

4—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act by inserting the definitions of ***co-management agreement*** and ***co-management board***, those terms being used in relation to the Unnamed Conservation Park. The clause also inserts a definition of ***Unnamed Conservation Park***.

5—Amendment of section 5—powers and functions of Maralinga Tjarutja

This clause amends section 5 of the principal Act to provide Maralinga Tjarutja with the power to enter a co-management agreement.

6—Insertion of Part 3 Division 1A

This clause inserts new Division 1A into Part 3 of the principal Act. The Division provides for the establishment of a co-management board by regulation, and sets out requirements, powers and procedures in relation to the board.

7—Amendment of section 17—Rights of traditional owners with respect to lands

This clause inserts a new subsection (2) into section 17, which provides that traditional owners' rights of access to the Unnamed Conservation Park are subject to the provisions of the *National Parks and Wildlife Act 1972*.

8—Amendment of section 18—Unauthorized entry upon the lands

This clause amends section 18 of the principal Act by inserting a new paragraph (ga) into subsection (11), stating that the section does not apply to entry upon the road reserve described in the third schedule and the Unnamed Conservation Park.

9—Insertion of section 20A

This clause inserts new section 20A into Division 4 of Part 3, which provides that the Division does not apply to the Unnamed Conservation Park.

10—Amendment of section 30—Road reserves

This clause makes a minor technical amendment to section 30 of the principal Act.

11—Amendment of the first schedule

This clause amends the first Schedule of the principal Act to include within the Maralinga Tjarutja lands the Unnamed Conservation Park.

12—Amendment of the second schedule

This clause amends the second Schedule of the principal Act to insert a map amended to reflect the inclusion of the Unnamed Conservation park within the Maralinga Tjarutja lands.

Part 3—Amendment of *National Parks and Wildlife Act 1972*

13—Amendment of section 5—Interpretation

This clause amends section 5 of the principal Act by inserting definitions of ***Aboriginal***, ***Aboriginal-owned***, ***Aboriginal person***, ***relevant Aboriginal group*** and ***traditional association***. The clause also inserts amendments of ***co-managed park***, ***co-management agreement*** and ***co-management board***.

14—Amendment of section 20—Appointment of wardens

This clause substitutes a new subsection (3) for subsections (3) and (4) of section 20 of the principal Act. This new subsection provides that the appointment of a warden under subsection (1) may be subject to conditions or limitations. The clause also inserts a new subsection (7), which provides that the Minister may not appoint a warden with powers limited in application to a co-managed park without the agreement of the co-management board (or the other party to co-management agreement if there is no board).

15—Amendment of section 22—Powers of wardens

This clause amends section 22 of the principal Act by inserting new subsection (8), which provides that a warden must not exercise a power under the Act in relation to a co-managed park contrary to the co-management agreement for that park.

16—Amendment of section 27—Constitution of national park by statute

This clause amends section 27 of the principal Act by inserting new subsection (6), which requires that certain proclamations must not be made in relation to a national park constituted of Aboriginal-owned land without the agreement of the registered proprietor of the land.

17—Amendment of section 28—Constitution of national parks by proclamation

This clause makes an amendment to section 28 of the principal Act similar to the amendment by clause 16.

18—Insertion of section 28A

This clause inserts new section 28A into the principal Act, and provides that co-managed national parks comprised of Aboriginal-owned land that was Aboriginal-owned land cease to be national parks upon termination of the co-management agreement for that park.

19—Amendment of section 29—Constitution of conservation park by statute

This clause makes an amendment to section 29 of the principal Act similar to the amendment by clause 16.

20—Amendment of section 30—Constitution of conservation parks by proclamation
This clause makes an amendment to section 30 of the principal Act similar to the amendment by clause 16.
21—Insertion of section 30A
This clause inserts new section 30A into the principal Act, and provides that co-managed conservation parks comprised of Aboriginal-owned land that was Aboriginal-owned land cease to be conservation parks upon termination of the co-management agreement for that park.
22—Amendment of section 35—Control of reserves
This clause makes an amendment to section 35 of the principal Act, providing that co-managed parks are under the control of the co-management board, or, if there is no board, of the Minister (subject to the provisions of the co-management agreement). The clause also substitutes "relevant authority" for "Minister" and "Director" to reflect the role of the co-management boards, and defines who is a relevant authority.
23—Substitution of section 36
This clause amends section 36 of the principal Act to provide that co-managed parks are under the management of the co-management board for the park, or, if there is no board, under that of the Director. The clause further provides that, in relation to a co-managed park, the board or the director must comply with the provisions of the co-management agreement for the park.
24—Amendment of section 37—Objectives of management
This clause makes a consequential amendment to section 37 of the principal Act, and inserts a new paragraph (k), setting out an objective for the preservation and protection of Aboriginal sites, features, objects and structures of spiritual or cultural significance within reserves.
25—Amendment of section 38—Management plans
This clause amends section 38 of the principal Act by making provision for the preparation by the Minister, in collaboration with a co-management board, of management plans in relation to co-managed parks. If there is no co-management board for the park, the Minister must consult with the other party to the co-management agreement. The Minister must also have the agreement of a co-management board, or if no board the other party to the co-management agreement, to exercise a power under subsection (9) in relation to a proposed plan of management for a co-managed park. The clause also provides that a plan of management in relation to a co-managed park must deal with the matters required by regulation.
26—Amendment of section 42—Prohibited areas
This clause makes an amendment to section 42 of the principal Act providing that the Minister may only make a declaration under subsection (1) in relation to a co-managed park with the agreement of the co-management board for the park, or, if there is no board, the other party to the co-management agreement. The clause also provides that the Minister may exempt members of the relevant Aboriginal group from any restriction imposed in relation to a co-managed park.
27—Amendment of section 43—Rights of prospecting and mining
This clause makes an amendment to section 43 of the principal Act requiring the agreement of the registered proprietor before making a proclamation under the section in relation to a co-managed park constituted of Aboriginal-owned land.
28—Amendment of section 43C—Entrance fees etc for reserves
This clause makes an amendment to section 43C of the principal Act defining "relevant authority" and substituting that term for "Director" in the section. This reflects the involvement of co-management boards in relation to co-managed parks.
29—Insertion of Part 3 Division 6A
This clause inserts Division 6A into Part 3 of the principal Act, the Division setting out provisions relating to co-managed parks. New section 43E sets out the objects of the Division.
New section 43F provides for the entering of a co-management agreement to co-manage a national or conservation park between the Minister, the registered proprietor of the land or a body representing the interests of the relevant Aboriginal group. The agreement may be for land which is Aboriginal-owned land, or it may be over land which is Crown land, but which an Aboriginal group or community has a traditional association. The clause also sets out the matters a co-management agreement may provide for, and for variation or termination of an agreement.
New section 43G allows the establishment of co-management boards by regulation, and sets out the matters the regulations may address.
New section 43H establishes the corporate nature of a co-management board.
New section 43I provides for the dissolution or suspension of co-management boards under certain circumstances.
New section 43J provides for staffing arrangements for co-management boards.
New section 43K requires accounts to be kept, and provides for annual audits by the Auditor-General of co-management board accounts. New section 43L provides for the provision of an annual report by a co-management board.
30—Amendment of section 45A—Interpretation and application
This clause inserts a new subsection (2) into section 45A, providing that Part 3A does not apply to a co-managed park constituted of Aboriginal-owned land.
31—Amendment of section 68C—Interpretation
This clause deletes subsection (1) of section 68C of the principal Act, the definitions having been moved to section 3.
32—Amendment of section 68D—Hunting and food gathering by Aborigines
This clause amends section 68D of the principal Act to make provision for the taking of native plants and animals etc from a co-managed park where the taking of those things is done with the permission of the co-management board for the park, or is in accordance with the co-management agreement for the park.
33—Amendment of section 68E—Exemption from requirement to hold hunting permit
This clause makes a consequential amendment to section 68E of the principal Act.
34—Amendment of section 79—Wilful damage to reserve or property of Minister or relevant board
This clause makes a consequential amendment to section 79 of the principal Act to reflect the role of co-management boards.
35—Amendment of schedule 3
This clause makes a minor technical amendment to Schedule 3 of the principal Act.

The Hon. G.M. GUNN secured the adjournment of the debate.

STATUTES AMENDMENT (DIVISION OF SUPERANNUATION INTERESTS UNDER FAMILY LAW ACT) BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Judges Pensions Act 1971, the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990, the Southern State Superannuation Act 1994 and the Superannuation Act 1988. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

The bill seeks to amend the Judges Pensions Act 1971, the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990, the Southern State Superannuation Act 1994 and the Superannuation Act 1988 to complement the requirements of part VIIIB of the Family Law Act 1975 (a commonwealth act) enacted by the federal parliament under the Family Law Legislation Amendment (Superannuation) Act 2001. Part VIIIB of the Family Law Act provides that a superannuation interest in a scheme is property for the purposes of the Family Law Act. This means that from 28 December 2002, which was the date on which the Family Law Legislation Amendment (Superannuation) Act 2001 came into operation, accrued superannuation benefits have been property that can be split and shared with the former partner to a marriage. Until the recent changes to the Family Law Act, a superannuation benefit of a member of a scheme could not be split and shared with a former partner to a

marriage, and the Family Court could take into account only the value of the superannuation as a 'financial resource'.

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

Leave granted.

Whilst the new Part VIIIB of the *Family Law Act 1975* sets out the framework for the superannuation splitting arrangement, its implementation is very complex. This complexity is evidenced by the 230 pages of regulations, already published under the *Family Law Act*, that prescribe the detail of the arrangement.

The new Commonwealth law has the potential to impact on a person who has an interest in any superannuation scheme, be it a private sector or public sector scheme. Accordingly, the new Commonwealth law applies to an interest in a superannuation scheme established under one of the before mentioned State Acts, which establish those public sector schemes under the regulatory control of the State Government. In general terms the provisions apply to all marriages that have broken down, irrespective of whether there has been a divorce between the spouses, provided there is not in force at the date that Part VIIIB of the *Family Law Act* comes into operation, a Section 79 property order or a Section 87 maintenance agreement.

The new Family Law provisions will enable persons entering into a marriage to include in a pre nuptial financial agreement, an agreement that deals with superannuation in circumstances where the marriage subsequently dissolves. The provisions also enable the parties to a marriage that has broken down to enter into an agreement specifying how the member spouse's interest is to be split and shared with the non-member spouse. Where the parties cannot agree the terms of a split of the superannuation interest, the Family Court will issue an Order giving directions on how the member spouse's interest is to be split. Trustees of superannuation schemes are bound by these superannuation agreements or Family Court orders.

Where a superannuation agreement is entered into between the spouses, the agreement can specify a 'base amount' or a percentage of the total value of the member spouse interest that is to be provided to the non-member spouse. The proportions of the split are determined by the spouses themselves in constructing a superannuation agreement. The option of not splitting a superannuation interest and using other property as an offset will continue to be available to the parties.

Due to constitutional reasons, the *Family Law Act* can only deal with the matter of how payments or benefits from a superannuation scheme, called "splittable payments", are to be split at the point when a benefit is paid. The Commonwealth cannot require schemes to create a separate interest for the non-member spouse and reduce the member spouse benefit before the member actually receives a benefit or splittable payment. However, it is generally accepted within the superannuation industry and amongst family law practitioners that it is in the parties' best interest for a splitting of the member spouse's interest to occur as soon as practicable after the splitting instrument is served on the trustees. This is called the "clean break" approach and it is the approach that the State Government has adopted for its superannuation schemes.

Accordingly, the Bill before the Parliament complements the requirements of the *Family Law Act* and amends the State superannuation legislation establishing schemes, implementing the "clean break" approach under which a separate interest for the non-member spouse is to be created as soon as practicable.

Under the Bill before the Parliament, the rules of the State's superannuation schemes are to be amended to provide for the splitting and creation of a separate interest for the non-member spouse, and a reduced benefit for the member spouse, on service of the splitting instrument on the relevant Board. The reduction in the member spouse accrued benefit, to the extent of the share provided to the non-member spouse, will take effect from the Commonwealth prescribed operative time. The approach being proposed under this legislation before the House therefore, is that even while a benefit is continuing to accrue to the member spouse because he or she is still working, and may be many years away from retirement, the non-member spouse's share of the member spouse's interest will be removed and placed in an account in the non-member spouse's name as soon as possible after the splitting documents are served on the administrator. Irrespective of the scheme to which the member spouse belongs, where the member spouse has not terminated their service, or they have a preserved benefit, the new interest to be created for the non-member spouse will be in the form of a lump sum. Where the accrued benefit or part of the accrued benefit is a defined benefit, the lump sum to be rolled over as an interest for the non-member spouse is to be determined on the basis of a set of actuarially determined factors, applicable to the particular scheme, and approved by the Commonwealth Attorney General. Unless scheme specific factors are approved by the Commonwealth Attorney General, the *Family Law Act* requires that the standard generic factors prescribed under the *Family Law (Superannuation) Regulations 2001* be applied. The Government has made application to have scheme specific factors approved for all the defined benefit schemes as the standard Commonwealth prescribed factors are not appropriate for the State Government schemes.

The Bill also provides that the new interest to be created for a non-member spouse may be rolled out to a regulated superannuation scheme nominated by the non-member spouse, or rolled into (or continued to be maintained in) the Triple S Scheme. The Triple S Scheme is the State Government's accumulation style scheme established under the *Southern State Superannuation Act*. Where no specific instructions are provided within 28 days of the relevant Board advising the non-member spouse that his or her interest must be rolled over to some other nominated scheme, the legislation provides that the non-member spouse's interest will be retained in the Triple S Scheme.

Due to the difficulty in determining the accrued benefit of a Member of Parliament where the member has not completed six years of service, the amendments proposed for the *Parliamentary Superannuation Act* provide for the Board to defer creating the separate interest for a non-member spouse until the member spouse attains six years of service or ceases to be a member of the Parliament, whichever first occurs. The difficulty in this area relates to the fact that the member's accrued benefit may either be a lump sum or a pension, depending on whether the member remains a member until completing six years service. A similar provision applies in the amendments being proposed for the *Judges' Pensions Act*, where generally a pension is not available until the judge has served 10 years and attained 60 years of age.

The Bill also sets out the arrangement that will apply where a pension benefit that is already in payment is to be split in accordance with a splitting instrument. This could be the situation where a couple who have been retired for a number of years decide to separate as a consequence of marriage breakdown. In such circumstances, the non-member spouse will be provided with several options. The first option is for the non-member spouse to receive his or her share of the member-spouse pension as an ongoing pension. As this pension is a share of the member-spouse interest, the pension will be payable for the life of the member-spouse, as provided for under the *Family Law Act*. The second option is for the non-member spouse to elect to convert his or her share in the interest into an 'associate pension', which will be a pension payable to the person in their own right. An 'associate pension' will be indexed and payable for the lifetime of the person, but not have any reversionary entitlements attached to it. The factors for the conversion of a non-member spouse interest in a pension to an 'associate pension' shall be actuarially determined and prescribed in regulations. The legislation also provides some flexibility for the non-member spouse, in providing an option for the initial share of the member–spouse pension to be commuted to a lump sum. Commutation of pensions will be at the standard rate for age commutation factors. The Bill provides that the non-member spouse must make a decision in regards to commuting the pension to a lump sum within a prescribed period. It is envisaged that the prescribed period will be 3 months. In relation to persons already in receipt of a pension, it is clear that there are additional matters and issues that the non-member spouse will need to consider. The Government will be asking the relevant Superannuation Boards to ensure that in these circumstances, the non-member spouse is made fully aware of his or her options together with the benefits and disadvantages associated with these options.

It is important to note that the amendments being proposed in this Bill only apply to the breakdown in cohabiting relationships between two *married* persons, and do not deal with the breakdown in cohabiting relationships between defacto partners. Similar legislation dealing with the breakdown in relationships between defacto partners cannot be introduced until the power to legislate in respect of de facto relationships has been referred to the Commonwealth. Alternatively, the States need to enact legislation to provide for an arrangement similar to that which is about to come into operation for married partners. Even if the States are left to enact legislation to provide a similar arrangement, the Commonwealth will be required to enact amendments to deal with the transfer between funds of the

superannuation interests of defacto partners. Resolution of this issue is under discussion with the Commonwealth. Until there is a resolution in this area, there will be different treatment of separating partners of a marriage, and separating partners of a defacto relationship.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the Act will be brought into operation on a day to be fixed by proclamation. This clause also provides that the Governor may, by proclamation, bring a section of the Act into operation on a day that is earlier than the day on which the proclamation is made. However, a section may not be brought into operation earlier than 28 December 2002.

Clause 3: Amendment provisions

This clause is formal.

PART 2—AMENDMENT OF JUDGES' PENSIONS ACT 1971

Clause 4: Insertion of s. 9A

This clause inserts into the *Judges' Pensions Act 1971* ("the Act") a new provision relating to the entitlements of spouses who have received, or are entitled to receive, benefits in accordance with Part VIIIB of the *Family Law Act 1975* as facilitated by the provisions of Part 2A (inserted by clause 5).

9A. Spouse entitlement subject to any Family Law determination

Sections 6A(3), 8 and 9 of the principal Act provide for the payment of a pension to the spouse of a deceased Judge or former Judge. This section qualifies those sections by prohibiting the payment of a pension in circumstances where section 17K (inserted by clause 5) applies. Section 17K applies where a Judge dies and is survived by a spouse who has received, is receiving or is entitled to receive a benefit under a splitting instrument and has the effect of preventing a spouse in these circumstances from receiving any other benefit under the Act.

Clause 5: Insertion of Part 2A

Clause 5 inserts Part 2A, which contains provisions necessary to facilitate the division of interests under the Act between spouses who have separated. These provisions are necessary as a consequence of the passing of the *Family Law Legislation Amendment (Superannuation) Act 1975* and the regulations under that Act.

PART 2A

FAMILY LAW ACT PROVISIONS

17B. Purpose of this Part

Section 17B expresses the purpose of Part 2A, which is to facilitate the division under the *Family Law Act 1975* of the Commonwealth of interests of spouses who have separated.

17C. Interpretation

Section 17C provides definitions of a number of terms that are introduced into the principal Act for the purposes of Part 2A only. Most of the definitions included in this section refer back to the Commonwealth instrument in which the term is originally defined (the *Family Law Act 1975* (as amended by the *Family Law Legislation Amendment (Superannuation) Act 1975*) or the *Family Law (Superannuation) Regulations 2001*).

Examples of terms defined in section 17C include "member spouse" (a spouse who has an entitlement to a superannuation interest), "non-member spouse" (the spouse of a member spouse) and "splitting instrument" (an agreement between spouses or an order of the Family Court providing for a split of the member spouse's superannuation interest).

17D. Accrued benefit multiple

Under regulation 64 of the *Family Law (Superannuation) Regulations 2001*, the trustee of an eligible superannuation plan is required to provide certain particulars to a non-member spouse seeking information in relation to, among other matters, a defined benefit interest. (A defined benefit interest is a superannuation interest (as defined) that entitles the member spouse to a benefit that is defined by reference to one or more of a number of specified factors. Interests under the principal Act are defined benefit interests.)

If a benefit is in the growth phase when a request for information is made, the trustee (or, under the principal Act, the Treasurer) is required under regulation 64(4)*(b)* to provide an applicant with the member spouse's "accrued benefit multiple". Section 17D provides three different formulae for determining the accrued benefit multiple in respect of a pension payable under the Act. The appropriate formula is determined on the basis of the member spouse's circumstances at the time the information is sought.

Section 17D also provides that the Treasurer may provide an applicant for information with a statement of the value of a member spouse's interest at a particular date.

17E. Value of interest

This section provides that the value of an interest under the Act will be determined in accordance with Part 5 of the Commonwealth regulations, subject to any modification prescribed by regulation under the Act. This is subject to the proviso in subsection (2) that an approval of the Commonwealth Minister under regulation 38 or 43A of the Commonwealth regulations that relates to a superannuation interest under Part 2A will have effect for the purposes of the Part.

17F. Non-member spouse's entitlement

This section prescribes the action required to be taken by the Treasurer on receipt of a splitting instrument.

The Treasurer is required to create a new interest for the non-member spouse named in the instrument. If the member spouse has less than 10 years judicial service at the time of service of the splitting instrument on the Treasurer, the Treasurer will create the interest for the non-member spouse when the member spouse attains 10 years of judicial service or ceases to be a judge, whichever occurs first. The value of the non-member spouse's interest will be determined on the basis of whether the interest is in the growth phase or payment phase and by reference to the provisions of the instrument.

17G. Entitlement where pension is in growth phase

If the member spouse's interest is a pension in the growth phase, the non-member spouse is entitled to a lump sum. If the splitting instrument specifies a percentage of the member spouse's benefit for the purposes of the split, the lump sum will be determined by applying that percentage split to the member spouse's interest under the Act based on the relevant accrued benefit multiple and by applying any relevant method or factor that applies under section 17E. If the splitting instrument specifies a lump sum amount for the purposes of the split, the lump sum will be adopted. The value of a lump sum payable to a non-member spouse must not exceed the value of the member spouse's interest.

17H. Entitlement where pension is in payment phase

If the member spouse's interest is a pension in the payment phase, the pension must be split between the parties in accordance with the percentage split specified in the instrument. The non-member spouse may elect to have the whole of his or her entitlement converted to a separate pension entitlement (an "associate pension") for his or her lifetime or elect to have the whole of his or her entitlement commuted to a lump sum. The amount of the associate pension will be determined by the application of prescribed methods and factors. The amount of the lump sum will be determined by the application of prescribed methods and factors.

If the non-member spouse dies while entitled to, or in receipt of, a pension under section 17H (other than an associate pension), the non-member spouse's legal representative may elect to have the pension commuted to a lump sum.

17I. Payment of non-member spouse's entitlement

Any lump sum payable to a non-member spouse must, according to the non-member spouse's election, be rolled over into an account in the Southern State Superannuation Fund or to another superannuation fund or scheme approved by the Treasurer, or paid out (but only if such payment is permitted under the *Superannuation Industry (Supervision) Act 1993*). If a non-member spouse fails to make an election under this section within 28 days, his or her interest must be rolled over to the credit of the non-member spouse into an account in the Southern State Superannuation Fund.

17J. Reduction in Judge's entitlement

If a payment split is payable in respect of a member spouse's interest, there must be a corresponding reduction in the member spouse's entitlement.

17K. Pension not payable to spouse on death of Judge if split has occurred

A non-member spouse who has received a benefit under a splitting instrument is not entitled to any other benefit under the Act on the death of the member spouse. This prohibition does not apply in relation to benefits unconnected to the deceased spouse.

17L. Treasurer to comply with Commonwealth requirements

Part VIIIB of the *Family Law Act 1975* imposes certain requirements on trustees. This section imposes an obligation on the Treasurer to comply with those requirements as if the Treasurer were the trustee of the pension scheme.

17M. Payment of benefit

This section provides that any amount payable under Part 2A of the Act is payable by the Treasurer from the Consolidated Account or a special deposit account established by the Treasurer. A special deposit account is an account established under section 8 of the *Public Finance and Audit Act 1987*.

17N. Fees

This section provides that the Treasurer may fix fees in respect of any matters in relation to which fees may be charged under regulation 59 of the Commonwealth regulations.

17N. Regulations

Section 17O provides that the Governor may make regulations contemplated by, or necessary or expedient for the purposes of, Part 2A. It is further provided that the regulations may modify the operation of any provision of the Act in prescribed circumstances in order to ensure that the Act operates in a manner that is consistent with, and complementary to, the requirements of the Commonwealth family law legislation.

PART 3
AMENDMENT OF PARLIAMENTARY SUPERANNUATION ACT 1974

Clause 6: Insertion of Part 4A

Part 4A, inserted by this clause, contains provisions necessary to ensure that the *Parliamentary Superannuation Act 1974* ("the Act") operates effectively in relation to the requirements of Part VIIIB of the *Family Law Act 1975* and the regulations under that Act, which provide for the division of superannuation interests between spouses who have separated.

PART 4A
FAMILY LAW ACT PROVISIONS

23A. Purpose of this Part

Section 23A expresses the purpose of Part 4A, which is to facilitate the division under the *Family Law Act 1975* of the Commonwealth of superannuation interests of spouses who have separated.

23B. Interpretation

Section 23B provides definitions of a number of terms that are introduced into the principal Act for the purposes of Part 4A only. Most of the definitions included in this section refer back to the Commonwealth instrument in which the term is originally defined (the *Family Law Act 1975* (as amended by the *Family Law Legislation Amendment (Superannuation) Act 1975*) or the *Family Law (Superannuation) Regulations 2001*).

Examples of terms defined in section 23B include "member spouse" (a spouse who has an entitlement to a superannuation interest), "non-member spouse" (the spouse of a member spouse) and "splitting instrument" (an agreement between spouses or an order of the Family Court providing for a split of the member spouse's superannuation interest).

23C. Accrued benefit multiple

Under regulation 64 of the *Family Law (Superannuation) Regulations 2001*, the trustee of an eligible superannuation plan is required to provide certain particulars to a non-member spouse seeking information in relation to, among other matters, a defined benefit interest. (A defined benefit interest is a superannuation interest that entitles the member spouse to a benefit that is defined by reference to one or more of a number of specified factors. Superannuation interests under the principal Act are defined benefit interests.)

If a benefit is in the growth phase when a request for information is made, the trustee (the Board) is required under regulation 64(4)*(b)* to provide an applicant with the member spouse's "accrued benefit multiple". Section 23C provides two different formulae for determining the accrued benefit multiple in respect of a pension payable under the Act. The appropriate formula is determined on the basis of the member spouse's circumstances at the time the information is sought.

Section 23C also provides that the Board may provide an applicant with a statement of the value of a member spouse's interest at a particular date.

23D. Value of superannuation interest

This section provides that the value of any superannuation interest will be determined in accordance with Part 5 of the Commonwealth regulations, subject to any modification prescribed by regulation under the Act. This is subject to the proviso in subsection (2) that an approval of the Commonwealth Minister under regulation 38 or 43A of the Commonwealth regulations that relates to a superannuation interest under the Act will have effect for the purposes of the Part.

23E. Non-member spouse's entitlement

This section prescribes the action required to be taken by the Board on receipt of a splitting instrument.

The Board is required to create a new interest for the non-member spouse named in the instrument. If the member spouse has less than 6 years service at the time of service of the splitting instrument on the Board, the Board will create the interest for the non-member spouse when the member spouse attains 6 years of service or ceases to be a member of Parliament, whichever occurs first. The value of the interest will be determined on the basis of whether the interest is in the growth phase or payment phase, by the nature of the member spouse's superannuation interest, by reference to the provisions of the instrument and by reference to any methods or factors prescribed under the Act.

23F. Non-member spouse's entitlement where pension is in growth phase

If the member spouse's superannuation interest is a pension in the growth phase, the non-member spouse is entitled to a lump sum. If the splitting instrument specifies a percentage of the member spouse's superannuation interest for the purposes of the split, the lump sum will be determined by applying that percentage split to the member spouse's superannuation entitlement under the Act based on the relevant accrued benefit multiple and by applying any relevant method or factor that applies under section 23D. If the splitting instrument specifies a lump sum amount for the purposes of the split, the lump sum will be adopted. The value of a lump sum payable to a non-member spouse must not exceed the value of the member spouse's interest.

23G. Non-member spouse's entitlement where pension is in payment phase

If the member spouse's superannuation interest is a pension in the payment phase, the pension must be divided between the parties in accordance with the percentage split specified in the instrument. The non-member spouse may elect to have the whole of his or her entitlement converted to a separate pension entitlement (an "associate pension") for his or her lifetime or elect to have the whole of his or her entitlement commuted to a lump sum. The amount of the associate pension will be determined by the application of prescribed methods and factors. The amount of the lump sum will be determined by the application of prescribed methods and factors.

If the non-member spouse dies while entitled to, or in receipt of, a pension under section 23G (other than an associate pension), the non-member spouse's legal representative may elect to have the pension commuted to a lump sum.

23H. Payment of non-member spouse's entitlement

Any lump sum payable to a non-member spouse must be rolled over into an account in the Southern State Superannuation Fund or to another superannuation fund or scheme approved by the Board, or paid out (but only if such payment is permitted under the *Superannuation Industry (Supervision) Act 1993*). If a non-member spouse fails to make an election under this section within 28 days, his or her interest must be rolled over to the credit of the non-member spouse into an account in the Southern State Superannuation Fund.

23I. Reduction in member's entitlement

If a payment split is payable in respect of a member spouse's superannuation interest, there must be a corresponding reduction in the member spouse's entitlement. The reduction

is to be made by the Board in the manner specified in this section.

23J. Pension not payable to spouse on death of member if split has occurred

A non-member spouse who has received a benefit under a splitting instrument is not entitled to any other benefit under the Act on the death of the member spouse. This prohibition does not apply in relation to benefits unconnected to the deceased spouse.

23K. Board to comply with Commonwealth requirements

Part VIIIB of the *Family Law Act 1975* imposes certain requirements on trustees. This section reinforces the Board's obligation to comply with those requirements.

23L. Fees

The Board may fix fees in respect of matters in relation to which fees may be charged under regulation 59 of the Commonwealth regulations. Subsection (2) provides that if such fees are not paid within one month after they become payable, the Board may deduct the fees from benefits payable to the spouse or non-member spouse, as appropriate.

Clause 7: Insertion of s. 26AAA

Clause 7 inserts a new section into the Part of the Act that deals with the entitlements of spouses on the death of a member.

26AAA. Spouse entitlement subject to any Family Law determination

Section 26AAA prevents payment of a pension to a spouse in circumstances where section 23J applies. Section 23J applies where a non-member spouse has received, is receiving or is entitled to receive a benefit under a splitting instrument.

Clause 8: Insertion of s. 39A

This clause inserts a new provision relating to the confidentiality of information as to the entitlements or benefits of a particular person under the Act. It also ensures that the confidentiality requirements prescribed by the *Family Law Act 1975* apply for the purposes of the Act.

Clause 9: Amendment of s. 40—Regulations

This clause amends section 40, which deals with the Governor's power to make regulations, by adding a specific power to make regulations for the purpose of modifying the operation of any provision of the Act in prescribed circumstances in order to ensure the Act operates in a manner that is consistent with, and complementary to, the requirements of the Commonwealth Act.

PART 4—AMENDMENT OF POLICE SUPERANNUATION ACT 1990

Clause 10: Amendment of s. 26—Death of contributor

Clause 11: Amendment of s. 32—Benefits payable on contributor's death

These clauses amend the provisions of the *Police Superannuation Act 1990* ("the Act") dealing with the entitlements of spouses on the death of old scheme and new scheme contributors by preventing the payment of a benefit to a surviving spouse in circumstances where section 38K applies. Section 38K applies where a non-member spouse has received, is receiving or is entitled to receive a benefit under a splitting instrument and prohibits payment of additional benefits to the non-member spouse on the death of the member spouse.

Clause 12: Insertion of Part 5B

Part 5B, inserted by this clause, contains provisions necessary to ensure that the Act operates effectively in relation to the requirements of Part VIIIB of the *Family Law Act 1975* and the regulations under that Act, which provide for the division of superannuation interests between spouses who have separated.

PART 5B

FAMILY LAW ACT PROVISIONS

DIVISION 1—PRELIMINARY

38F. Purpose of this Part

Section 38F expresses the purpose of Part 5B, which is to facilitate the division under the *Family Law Act 1975* of the Commonwealth of superannuation interests of spouses who have separated.

38G. Interpretation

Section 38G provides definitions of a number of terms that are introduced into the principal Act for the purposes of Part 5B only. Most of the definitions included in this section refer back to the Commonwealth instrument in which the term is originally defined (the *Family Law Act 1975* (as amended by the *Family Law Legislation Amendment (Superannuation) Act 1975*) or the *Family Law (Superannuation) Regulations 2001*).

Examples of terms defined in section 38G include "member spouse" (a spouse who has an entitlement to a superannuation interest), "non-member spouse" (the spouse of a member spouse) and "splitting instrument" (an agreement between spouses or an order of the Family Court providing for a split of the member spouse's superannuation interest).

38H. Value of superannuation interest

This section provides that the value of any superannuation interest will be determined in accordance with Part 5 of the Commonwealth regulations, subject to any modification prescribed by regulation under the Act. This is subject to the proviso in subsection (2) that an approval of the Commonwealth Minister under regulation 38 or 43A of the Commonwealth regulations that relates to an interest under the Act will have effect for the purposes of the Part.

38I. Board to comply with Commonwealth requirements

Part VIIIB of the *Family Law Act 1975* imposes certain requirements on trustees. This section reinforces the Board's obligation to comply with those requirements.

38J. Reduction in contributor's entitlement

If a payment split is payable in respect of a member spouse's superannuation interest, there must be a corresponding reduction in the member spouse's entitlement. The reduction is to be made in the manner specified in this section.

38K. Benefit not payable to spouse on death of member if split has occurred

A non-member spouse who has received, is receiving or is entitled to receive a benefit under a splitting instrument is not entitled to any other benefit under the Act on the death of the member spouse. This prohibition does not apply in relation to benefits unconnected to the deceased spouse.

DIVISION 2—NEW SCHEME CONTRIBUTORS

38L. Application of Division

Division 2 of Part 5B applies in relation to the interests of new scheme contributors only.

38M. Accrued benefit multiple

Under regulation 64 of the *Family Law (Superannuation) Regulations 2001*, the trustee of an eligible superannuation plan is required to provide certain particulars to a non-member spouse seeking information in relation to, among other matters, a defined benefit interest. (A defined benefit interest is a superannuation interest that entitles the member spouse to a benefit that is defined by reference to one or more of a number of specified factors. Superannuation interests under the principal Act are defined benefit interests.)

If a benefit is in the growth phase when a request for information is made, the trustee (the Board) is required under regulation 64(4)*(b)* to provide an applicant with the member spouse's "accrued benefit multiple". Section 38M provides that the accrued benefit multiple in respect of a superannuation interest payable as a lump sum is the multiple of annual salary that the member spouse would be entitled to receive at the prescribed date assuming that the member spouse retired on that day at or above the age of retirement, with the member spouse's accrued contribution points and contribution period as at that day.

Section 38M also provides that the Board may provide an applicant with a statement of the value of a superannuation interest of a member spouse as at a particular date.

38N. Non-member spouse's entitlement

This section prescribes the action required to be taken by the Board on receipt of a splitting instrument in respect of a superannuation interest payable as a lump sum.

The Board is required to create a new interest for the non-member spouse named in the instrument in accordance with the provisions of the instrument. The lump sum payable to the non-member spouse must, at his or her election, be rolled over into an account in the Southern State Superannuation Fund or to another superannuation fund or scheme approved by the Board, or paid out (but only if such payment is permitted under the *Superannuation Industry (Supervision) Act 1993*). If a non-member spouse fails to make an election under this section within 28 days, his or her interest must be rolled over to the credit of the non-member spouse into an account in the Southern State Superannuation Fund.

DIVISION 3—OLD SCHEME CONTRIBUTORS

38O. Application of Division

Division 3 of Part 5B applies in relation to the interests of old scheme contributors only.

38P. Accrued benefit multiple

Section 38P provides a method for determining the accrued benefit multiple in respect of a superannuation interest payable to an old scheme contributor under the Act.

38Q. Non-member spouse's entitlement

This section prescribes the action required to be taken by the Board on receipt of a splitting instrument in respect of a superannuation interest payable as a pension.

The Board is required to create a new interest for the non-member spouse named in the instrument. The form and value of the interest will be determined on the basis of whether the interest is in the growth phase or payment phase, by the nature of the member spouse's superannuation interest and also by reference to the provisions of the instrument.

38R. Non-member spouse's entitlement where pension is in growth phase

If the member spouse's superannuation interest is a pension in the growth phase, the non-member spouse is entitled to a lump sum. If the splitting instrument specifies a percentage of the member spouse's superannuation interest for the purposes of the split, the lump sum will be determined by applying that percentage split to the member spouse's superannuation entitlement under the Act based on the relevant accrued benefit multiple and by applying any relevant method or factor that applies under section 38H. If the splitting instrument specifies a lump sum amount for the purposes of the split, the lump sum will be adopted. The value of a lump sum payable to a non-member spouse must not exceed the value of the member spouse's interest.

38S. Non-member spouse's entitlement where pension is in payment phase

If the member spouse's superannuation interest is a pension in the payment phase, the pension must be divided between the parties in accordance with the percentage split specified in the instrument. The non-member spouse may elect to have the whole of his or her entitlement converted to a separate pension entitlement (an "associate pension") for his or her lifetime or elect to have the whole of his or her entitlement commuted to a lump sum. The amount of the pension will be determined by the application of prescribed methods and factors. The amount of the lump sum will be determined by the application of prescribed methods and factors.

If the non-member spouse dies while entitled to, or in receipt of, a pension under section 38S (other than an associate pension), the non-member spouse's legal representative may elect to have the pension commuted to a lump sum.

38T. Payment of non-member spouse's entitlement

Any lump sum payable to a non-member spouse must, at his or her election, be rolled over into an account in the Southern State Superannuation Fund or to another superannuation fund or scheme approved by the Board, or paid out (but only if such payment is permitted under the *Superannuation Industry (Supervision) Act 1993*). If a non-member spouse fails to make an election under this section within 28 days, his or her interest must be rolled over to the credit of the non-member spouse into an account in the Southern State Superannuation Fund.

38U. Fees

Section 38U provides that the Board may fix fees payable in respect of matters in relation to which the Board is permitted by the Commonwealth legislation to charge fees. Subsection (2) provides that if such fees are not paid within one month after they become payable, the Board may deduct the fees from benefits payable to the spouse or non-member spouse, as appropriate.

Clause 13: Amendment of s. 49—Confidentiality

This amendment ensures that the confidentiality requirements prescribed by the *Family Law Act 1975* apply for the purposes of the Act.

Clause 14: Amendment of s. 52—Regulations

This clause amends section 52, which deals with the Governor's power to make regulations, by adding a specific power for the Governor to make regulations for the purpose of modifying the operation of any provision of the Act in prescribed circumstances in order to ensure the Act operates in a manner consistent with, and complementary to, the requirements of the *Family Law Act 1975*.

PART 5—AMENDMENT OF SOUTHERN STATE SUPERANNUATION ACT 1994

Clause 15: Amendment of s. 3—Interpretation

This clause amends section 3 of the *Southern State Superannuation Act 1994* ("the Act") by recasting the definition of "rollover account" to include any rollover accounts established by the Board, including under the new family law provisions.

Clause 16: Amendment of s. 7—Contribution and rollover accounts

This amendment makes it clear that the Board can debit administrative charges against certain accounts.

Clause 17: Amendment of s. 12—Payment of benefits

Under section 12 of the principal Act, a payment to be made under the Act to or on behalf of a member, or to a spouse or the estate of a deceased member, must be made out of the Consolidated Account or a special deposit account. The amendment to section 12 effected by this clause removes the wording that refers specifically to the spouse or estate of a deceased member and substitutes wording that is more general. This amendment therefore has the effect of requiring that payment to *any person entitled to a benefit* under the Act be made out of the Consolidated Account or a special deposit account.

Clause 18: Amendment of s. 14—Membership

Clause 19: Amendment of s. 21—Basic Invalidity/Death Insurance

Clause 20: Amendment of s. 22—Application for additional invalidity/death insurance

Clause 21: Amendment of s. 25—Contributions

Clause 22: Amendment of s. 26—Payments by employers

Clause 23: Amendment of s. 27—Employer contribution accounts

These amendments are all consequential on the creation of rollover accounts in the names of non-member spouses who are entitled to lump sum benefits under these Family Law provisions.

Clause 24: Amendment of s. 35—Death of member

Section 35 of the principal Act deals with the entitlements of a spouse on the death of a member. This amendment inserts a new subsection that has the effect of preventing the payment of a benefit to a surviving spouse in circumstances where section 35F applies. Section 35F applies where a non-member spouse has received, is entitled to receive or is receiving a benefit under a splitting instrument and prohibits payment of additional benefits to the non-member spouse on the death of the member spouse.

Clause 25: Insertion of Part 5A

Part 5A, inserted by this clause, includes provisions necessary to ensure that the principal Act operates effectively in relation to the requirements of Part VIIIB of the *Family Law Act 1975* and the regulations under that Act, which provide for the division of superannuation interests between spouses who have separated.

PART 5A
FAMILY LAW ACT PROVISIONS

35A. Purpose of this Part

Section 35A expresses the purpose of Part 5A, which is to facilitate the division under the *Family Law Act 1975* of the Commonwealth of superannuation interests of spouses who have separated.

35B. Interpretation

Section 35B provides definitions of a number of terms that are introduced into the principal Act for the purposes of Part 5B only. Most of the definitions included in this section refer back to the Commonwealth instrument in which the term is originally defined (the *Family Law Act 1975* (as amended by the *Family Law Legislation Amendment (Superannuation) Act 1975*) or the *Family Law (Superannuation) Regulations 2001*).

Examples of terms defined in section 35B include "member spouse" (a spouse who has an entitlement to a superannuation interest), "non-member spouse" (a spouse who is not a member spouse in relation to a superannuation interest) and "splitting instrument" (an agreement between spouses or an order of the Family Court providing for a split of the member spouse's superannuation interest).

35C. Non-member spouse entitlement

This section prescribes the action that must be taken by the Board following service of a splitting instrument. The Board is required to create a new interest for the non-member spouse named in the instrument in accordance with the provisions of the instrument.

35D. Payment of lump sum

The interest created for the non-member spouse under section 35C must, at his or her election, be retained in an account in

the Southern State Superannuation Fund or rolled over to another superannuation fund or scheme approved by the Board, or paid out (but only if such payment is permitted under the *Superannuation Industry (Supervision) Act 1993*). If a non-member spouse fails to make an election under this section within 28 days, his or her interest must be transferred to the credit of the non-member spouse into an account in the Southern State Superannuation Fund.

35E. Reduction in member's entitlement

If a payment split is payable in respect of a member spouse's superannuation interest, there must be a corresponding reduction in the member spouse's entitlement. The reduction is to be made in the manner specified in this section.

35F. Lump sum not payable to person who has received benefit under splitting instrument

A non-member spouse who has received, is receiving or is entitled to receive a benefit under a splitting instrument is not entitled to any other benefit under the Act on the death of the member spouse. This prohibition does not apply in relation to benefits unconnected to the deceased spouse.

35G. Board to comply with Commonwealth requirements

Part VIIIB of the *Family Law Act 1975* imposes certain requirements on trustees. This section reinforces the Board's obligation to comply with those requirements.

35H. Provision of information

The Board will be able to provide information about the value of superannuation interests to eligible persons.

35I. Payment from contribution account in name of non-member spouse

This section deals with the payment out of a contribution account that holds money paid under this or a corresponding Part.

35J. Fees

This section authorises the Board to fix fees payable in respect of matters in relation to which the Board is permitted by the Commonwealth legislation to charge fees. Subsection (2) provides that if such fees are not paid within one month after they become payable, the Board may deduct the fees from benefits payable to the spouse or non-member spouse, as appropriate.

Clause 26: Amendment of s. 47A—Confidentiality

This amendment ensures that the confidentiality requirements prescribed by the *Family Law Act 1975* apply for the purposes of the Act.

Clause 27: Amendment of s. 49—Regulations

This clause amends section 49, which deals with the Governor's power to make regulations, by adding a specific power for the Governor to make regulations for the purpose of modifying the operation of any provision of the Act in prescribed circumstances in order to ensure that the Act operates in a manner that is consistent with, and complementary to, the requirements of the Commonwealth family law legislation.

PART 6—AMENDMENT OF SUPERANNUATION ACT 1988

Clause 28: Amendment of s. 20B—Payment of benefits

Under section 20B of the *Superannuation Act 1988* ("the Act"), a payment to be made under the Act to or on behalf of a member, or to a spouse or child or the estate of a deceased member, must be made out of the Consolidated Account or a special deposit account. The amendment made to section 20B by this clause removes the wording that refers specifically to the spouse, child or estate of a deceased member and substitutes wording that is more general and therefore has the effect of requiring that payment of any benefit payable under the Act will be made out of the Consolidated Account or a special deposit account.

Clause 29: Amendment of s. 32—Death of contributor

Clause 30: Amendment of s. 38—Death of contributor

These clauses amend the provisions of the Act dealing with the entitlements of spouses on the death of both old scheme and new scheme contributors by preventing the payment of a benefit to a surviving spouse in circumstances where section 43AG applies. Section 43AG applies where a non-member spouse has received, is receiving or is entitled to receive a benefit under a splitting instrument and prohibits payment of additional benefits to the non-member spouse on the death of the member spouse.

Clause 31: Insertion of Part 5A

Part 5A, inserted by this clause, includes provisions necessary to ensure that the principal Act operates effectively in relation to the requirements of Part VIIIB of the *Family Law Act 1975* and the regulations under that Act, which provide for the division of superannuation interests between spouses who have separated.

PART 5A

FAMILY LAW ACT PROVISIONS

DIVISION 1—PRELIMINARY

43AB. Purpose of this Part

Section 43AB expresses the purpose of Part 5A, which is to facilitate the division under the *Family Law Act 1975* of the Commonwealth of superannuation interests of spouses who have separated.

43AC. Interpretation

Section 43AC provides definitions of a number of terms that are introduced into the principal Act for the purposes of Part 5B only. Most of the definitions included in this section refer back to the Commonwealth instrument in which the term is originally defined (the *Family Law Act 1975* (as amended by the *Family Law Legislation Amendment (Superannuation) Act 1975*) or the *Family Law (Superannuation) Regulations 2001*).

Examples of terms defined in section 38G include "member spouse" (a spouse who has an entitlement to a superannuation interest), "non-member spouse" (a spouse who is not a member spouse in relation to a superannuation interest) and "splitting instrument" (an agreement between spouses or an order of the Family Court providing for a split of the member spouse's superannuation interest).

43AD. Value of superannuation interest

This section provides that the value of any superannuation interest will be determined in accordance with Part 5 of the Commonwealth regulations, subject to any modification prescribed by regulation under the Act. This is subject to the proviso in subsection (2) that an approval of the Commonwealth Minister under regulation 38 or 43A of the Commonwealth regulations that relates to an interest under Part 5A of the Act will have effect for the purposes of the Part.

43AE. Board to comply with Commonwealth requirements

Part VIIIB of the *Family Law Act 1975* imposes certain requirements on trustees. This section reinforces the Board's obligation to comply with those requirements.

43AF. Reduction in member's entitlement

If a payment split is payable in respect of a member spouse's superannuation interest, there must be a corresponding reduction in the member spouse's entitlement. The reduction is to be made in the manner specified in this section.

43AG. Benefit not payable to spouse on death of member if split has occurred

A non-member spouse who has received, is receiving or is entitled to receive a benefit under a splitting instrument is not entitled to any other benefit under the Act on the death of the member spouse. This prohibition does not apply in relation to benefits unconnected to the deceased spouse.

DIVISION 2—NEW SCHEME CONTRIBUTORS

43AH. Application of Division

Division 2 of Part 5A applies in relation to the interests of new scheme contributors only.

43AI. Accrued benefit multiple

Under regulation 64 of the *Family Law (Superannuation) Regulations 2001*, the trustee of an eligible superannuation plan is required to provide certain particulars to a non-member spouse seeking information in relation to, among other matters, a defined benefit interest. (A defined benefit interest is a superannuation interest that entitles the member spouse to a benefit that is defined by reference to one or more of a number of specified factors. Superannuation interests under the principal Act are defined benefit interests.)

If a benefit is in the growth phase when a request for information is made, the trustee (the Board) is required under regulation 64(4)*(b)* to provide an applicant with the member spouse's "accrued benefit multiple". Section 43AI provides that the accrued benefit multiple in respect of a superannuation interest payable as a lump sum is the multiple of annual salary that the member spouse would be entitled to receive at the prescribed date assuming that the member spouse retired on that day at or above the age of retirement, with the member spouse's accrued contribution points and contribution period as at that day.

Section 43AI also provides that the Board may provide an applicant with a statement of the value of a superannuation interest of a member spouse as at a particular date.

43AJ. Non-member spouse's entitlement

This section prescribes the action required to be taken by the Board on receipt of a splitting instrument in respect of a superannuation interest payable as a lump sum.

The Board is required to create a new interest for the non-member spouse named in the instrument in accordance with the provisions of the instrument. The lump sum payable to the non-member spouse must, at his or her election, be rolled over into an account in the Southern State Superannuation Fund or to another superannuation fund or scheme approved by the Board, or paid out (but only if such payment is permitted under the *Superannuation Industry (Supervision) Act 1993*). If a non-member spouse fails to make an election under this section within 28 days, his or her interest must be rolled over to the credit of the non-member spouse into an account in the Southern State Superannuation Fund.

DIVISION 3—OLD SCHEME CONTRIBUTORS

43AK. Application of Division

Division 3 of Part 5A applies in relation to the interests of old scheme contributors only.

43AL. Accrued benefit multiple

Section 43AL provides a method for determining the accrued benefit multiple in respect of a superannuation interest payable to an old scheme contributor under the Act.

43AM. Non-member spouse's entitlement

This section prescribes the action required to be taken by the Board on receipt of a splitting instrument in respect of a superannuation interest payable as a pension.

The Board is required to create a new interest for the non-member spouse named in the instrument. The form and value of the interest will be determined on the basis of whether the interest is in the growth phase or payment phase, by the nature of the superannuation interest and also by reference to the provisions of the instrument.

43AN. Non-member spouse's entitlement where pension is in growth phase

If the member spouse's superannuation interest is a pension in the growth phase, the non-member spouse is entitled to a lump sum. If the splitting instrument specifies a percentage of the member spouse's superannuation interest for the purposes of the split, the lump sum will be determined by applying that percentage split to the member spouse's superannuation entitlement under the Act based on the relevant accrued benefit multiple and by applying any relevant method or factor that applies under section 43AD. If the splitting instrument specifies a lump sum amount for the purposes of the split, the lump sum will be adopted. The value of a lump sum payable to a non-member spouse must not exceed the value of the member spouse's interest.

43AO. Non-member spouse's entitlement where pension is in payment phase

If the member spouse's superannuation interest is a pension in the payment phase, the pension must be split between the parties in accordance with the percentage split specified in the instrument. The non-member spouse may elect to have the whole of his or her entitlement converted to a separate pension entitlement (an "associate pension") for his or her lifetime or elect to have the whole of his or her entitlement commuted to a lump sum. The amount of the pension will be determined by the application of prescribed methods and factors. The amount of the lump sum will be determined by the application of prescribed methods and factors.

If the non-member spouse dies while entitled to, or in receipt of, a pension under section 43AO (other than an associate pension), the non-member spouse's legal representative may elect to have the pension commuted to a lump sum.

43AP. Payment of non-member spouse's entitlement

Any lump sum payable to a non-member spouse must be rolled over into an account in the Southern State Superannuation Fund or to another superannuation fund or scheme approved by the Board, or paid out (but only if such payment is permitted under the *Superannuation Industry (Supervision) Act 1993*). If a non-member spouse fails to make an election under this section within 28 days, his or her interest must be rolled over to the credit of the non-member spouse into an account in the Southern State Superannuation Fund.

43AQ. Fees

This section provides that the Board may fix fees payable in respect of matters in relation to which the Board is permitted by the Commonwealth legislation to charge fees. Subsection (2) provides that if such fees are not paid within one month after they become payable, the Board may deduct the fees from benefits payable to the spouse or non-member spouse, as appropriate.

Clause 32: Amendment of s. 55—Confidentiality

This amendment ensures that the confidentiality requirements prescribed by the *Family Law Act 1975* apply for the purposes of the Act.

Clause 33: Amendment of s. 59—Regulations

This clause amends the section of the Act dealing with the Governor's power to make regulations by adding a specific power for the Governor to make regulations for the purpose of modifying the operation of any provision of the Act in prescribed circumstances in order to ensure that the Act operates in a manner that is consistent with, and complementary to, the requirements of the Commonwealth family law legislation.

Schedule 1—Transitional provisions

1. Interpretation

Clause 1 of Schedule 1 provides definitions of terms used in the Schedule. A *relevant Act* is an Act amended by the *Statutes Amendment (Division of Superannuation Benefits Under Family Law Act) Act 2003* ("the amending Act"). *Relevant Authority* means a superannuation Board or the Treasurer.

2. Prior action

This clause validates action taken by a relevant authority under a relevant Act prior to the amending Act being brought into operation, so long as that action would have been valid and effectual if it had been taken after the commencement of the amending Act.

3. Instruments

This clause provides that instruments lodged with a relevant authority before the commencement of the amending Act may take effect for the purposes of a relevant Act after the commencement of the amending Act.

4. Other matters

This clause provides that the Governor may, by regulation, make additional provisions of a saving or transitional nature.

The Hon. M.R. BUCKBY secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (IDENTITY THEFT) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935 and make a related amendment to the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

Identity theft is a major problem. It occurs, generally speaking, when a person uses false personal identifying information to commit other criminal behaviour. That false information may relate to a real living person or a dead person or a fictitious person. Research into the crimes involved indicates that identity theft is used by criminals to commit a wide variety of the crimes (not just stealing and fraud) and that the prevalence of identity theft is high and growing at a high rate. It is more than time that something was done about it. If the identity thief uses the false identity or false identity information to achieve his or her aims it is very likely indeed that he or she will have committed an existing offence, such as theft, fraud, people smuggling, drug offences, tax offences, and so on.

In some cases the identity thief will be guilty of a offence of forgery or some allied offence, but not always, and not

always an offence of the seriousness that reflects the true gravity of the criminality of the conduct involved. Suppose, for example, that an employee of a restaurant is caught in possession of a credit card skimming device. This device is designed to transfer the details stored on a credit card when the real credit card is passed through it so that the details may be transferred to a blank credit card and then, presumably, used. But no theft or fraud can be proved to have yet happened. What is needed, and what the bill proposes, is a set of preparatory offences that catch the behaviour of identity theft that occurs before the crime that the identity theft is designed to facilitate. Identity theft is a big problem.

Recently, the Commissioner of Police said that the cost of identity crime to the public and to individuals is escalating. Australasia's police commissioners have combined to carry out an Australian identity crime policing strategy 2002-05, which targets identity crime and which aims to assist victims of identity theft. SAPOL has formed a new commercial and electronic crime branch. The bill will complement the efforts of this new policing strategy. Therefore, the bill proposes five new offences to be inserted into the Criminal Law Consolidation Act. These offences attack, generally speaking, the use of a false identity intending to commit a serious criminal offence; misusing another person's personal identity information intending to commit a serious criminal offence; and producing, possessing, selling, giving or being in possession of equipment for making false identity information. All are indictable offences. In addition, we propose to give victims the right to get a certificate from a court so that they can prove that an offence has been committed against them. This is not limited to identity theft offences. It may be that, for example, the actual offence is forgery.

There has been wide consultation on the draft of the bill. It has been welcomed by the financial services industry, in particular. It is another South Australian first for Australia. The criminalisation of identity theft is a step that is required now and for the future. I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

The Problem

In the past, identity was easily established as people conducted the majority of their transactions in person. Since the development of information technology, the public can no longer be certain that the person at the end of the fibre optic cable is who he or she claims to be. The ever-increasing world of virtual commerce and low-cost technology has resulted in an explosion of these false identity documents. Ten years ago a criminal would require access to sophisticated printing machinery and skills, but today inexpensive desktop publishing and limited expertise can produce high quality fake documents. Criminals have evolved from picking pockets to using more sophisticated methods of theft. Thieves now steal personal information and use another person's identity to commit many forms of offences of dishonesty—or, as we shall see, worse crimes. It has been estimated that identity theft affects about 350 000 to 500 000 people annually in the United States. No comparable statistics are available in Australia, but there is no reason to doubt either that the problem is proportionately less or that it will not grow.

Some recent examples serve to make the point. On August 12 2003, Kok Meng Ng pleaded guilty to offences involving an electronic skimming device and a pin head camera planted in 36 ATMs in Sydney. The skimming devices were attached to the ATMs and read the data on the magnetic stripe on customers' cards and the camera recorded the PIN as it was entered. The scam netted $620 000 involving 315 victims. At the time, it was reported that the risk manager of Visa International estimated that 50% of credit card fraud in Australia, worth $50 million, was the result of credit card skimming, up from 5% two years ago. It might be thought that Mr Ng was guilty of offences so this Bill is unnecessary—but what if he had been caught before he had actually succeeded in stealing anything?

In August and September 2003, authorities warned of a proliferation of fake bank websites, some of which were located overseas, which were facsimiles of Australian banks such as Westpac, National Bank, ANZ, ASB and BNZ. One such scam worked by convincing people to accept deposits into their bank accounts which they then forwarded to a third person minus an accounting fee kept by the account holder. However, once the transactions were completed, the fraudsters cancelled the deposit, leaving the account holder out of pocket for the transfer. This example shows that corporations can be just as much victims of identity theft as individuals—and the proposed Bill recognises this.

Identity Theft and Terrorism

Law enforcement officials around the world have acknowledged that identity theft is an essential component of many criminal activities, ranging from credit card fraud to international terrorism. Identity theft is a major facilitator of international terrorism. Terrorists have used stolen identities in connection with planned terrorist attacks. For example, the World Trade Centre perpetrators used numerous false identification documents, such as photographs, bank documents, medical histories, and education records from which false identities could have been created. It has been documented that an Al-Qaeda terrorist cell in Spain used stolen credit cards in fictitious sales scams and for numerous other purchases for the cell. They also used stolen telephone and credit cards for communications back to Pakistan, Afghanistan and Lebanon. Extensive use of false passports and travel documents were used to open bank accounts where money was sent to and from Pakistan and Afghanistan. In the United States, since the September 11 attacks, there have been increased efforts by federal, state and local law-enforcement officials in investigating and prosecuting of social security number misuse. They have discovered cases where social security numbers have been used to facilitate and conceal terrorist crimes.

What Is Identity Theft?

Identity theft has been described as the crime of the new millennium. There is no one universally accepted definition of identity theft. Typically, identity theft refers to the illegal use of personal identifying information to commit other criminal behaviour. Identity theft usually involves "stealing" another person's personal identifying information, such as a name, date of birth, address, social security number, credit card number, etc., and using the information to commit other offences, such as fraudulently establishing credit, running up debt, or taking over existing financial accounts. The term "identity theft" is preferred in this Bill as it connotes that, usually (but not invariably), there is a victim whose identity has been "stolen". By comparison, "identity fraud" focuses on the fact of the deceit perpetrated. Both elements exist of course, but the victim focus is more consistent with the victim orientation of today's criminal justice policy.

Other Crimes

Terrorism aside, identity theft and fabrication can be linked to organised crime in a variety of ways:

- illegal immigrants requiring identity to access goods and services;
- drug couriers and criminals engaged in money laundering; and
- organised criminals perpetrating large-scale frauds against business and governments.

During the course of any given day there are opportunities for criminals to obtain personal information in order to commit identity theft through the various mundane activities of a typical consumer, such as:

- purchasing petrol, meals, clothes;
- renting a car or video;
- receiving mail;
- taking out the rubbish for collection or recycling.

Any activity where identity information is shared or made available to others creates an opportunity for identity theft.

Some Examples of Methods of Identity Theft

Identity theft can occur in many different ways. Identity thieves scavenge through garbage, steal and redirect mail, use internal access of databases, and surf the Internet searching for personal information. However, some general methods can be identified as examples. One such example, which has received recent prominence in New South Wales, is "shoulder surfing". In public places, thieves watch people from nearby locations as they enter telephone calling card numbers, enter EFTPOS pin numbers, or listen in on conversations while a person provides a credit card number over the telephone. There is also the method known as "dumpster diving". Outside businesses,

medical facilities and homes, thieves go through garbage cans or recycling bins in an attempt to obtain identity information which includes credit card receipts, bank statements, medical records, or other records that provide name, address, and telephone number details. Another is known as "skimming", in which the thief uses an electronic device in a restaurant or shop to download information from a person's credit card accounts by simply passing a credit card through the machine. Methods are many and various, complex and simple.

The Costs Associated with Identity Theft

Accurate measurement of the cost of identity theft is extremely difficult. The best attempt at the task has been in the United States. There, it has been estimated that the nationwide cost of identity theft is $2.5 billion and is forecast to grow by 30% per annum reaching $8 billion by 2005. The average loss to the financial industry is said to be approximately $17 000 per victim. By comparison, the average bank robbery in the United States nets $3 500 and the criminal faces greater risk of personal harm and exposure to a more serious prison sanction if convicted. In the United Kingdom, research suggests that an annual figure of 1.3 billion pounds is the minimum cost to the economy arising from identity theft. In Australia, according to figures from the Australian Institute of Criminology, identity theft is costing the Australian community about $3.5 billion per year.

Human costs of identity theft should also be acknowledged, even aside from such obvious costs as are imposed by terrorism offences. Emotional costs are associated with more common identity theft, particularly where the intended and completed crime is impersonation, which will necessarily involve the often considerable time and effort required to repair a compromised credit history. These victims feel personally violated. One American victim described it as "financial cancer". Identity thieves can successfully mask their true identity and criminal history for various purposes. The identity thief can and does endanger public safety by masquerading as an individual with specific qualifications such as a doctor, lawyer, or other trained professional. This may be the occasion for cinematic celebration—but not by the passengers of an aeroplane piloted by an incompetent. In the United States research shows that, on average, victims spend almost 3 months and about $800 to remove information owing to identity theft.

The Prevalence of Identity Theft

It is quite difficult to quantify the prevalence of identity theft accurately. The reason for this is that many individuals do not know that they have been victimised until many months after the theft takes place, and some victims choose not to report the incident to the police, financial institution or established hotlines. In March 2001, the (US) Federal Trade Commission (FTC) received just over 2000 complaints of identity theft per week. By December of that same year, the number of complaints had increased to 3000 per week. According to a recent study in the United States, 1 in every 50 consumers has been the victim of identity theft in the past 12 months, while 1 in every 20 consumers has been a victim of credit card fraud. Of the 204 000 consumer fraud complaints compiled by the United States Federal Trade Commission in 2001, 42% involved identity theft.

The Criminal Law

There is clearly a case to be made for the criminal law to make it an offence to commit "identity theft". No Australian jurisdiction has enacted such a general offence. However, there is now a body of experience in the United States and Canada. It is instructive. For example, issues arise as to whether identity theft laws should focus on the use of false identity documents to obtain credit or whether the focus should be broader in scope. Further, what is and is not included as "personal identification information" or "identity documents" is also controversial, especially given the speed at which technology is advancing in this area.

United States Federal Laws

The primary identity theft statute in the United States at a federal level is the Identity Theft and Assumption Deterrence Act (Identity Theft Act) 1998. This Act not only addresses the fraudulent creation, use or transfer of identification documents, but also prohibits the theft or criminal use of personal information. Section 18 U.S.C. §1028 (a) (7) provides that it is unlawful for a person to knowingly transfer or use, without lawful authority, "a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law". Sections 18 U.S.C. 1028 (a) (4) and (6) prohibit the possession of false or stolen identification documents with the intention to defraud. Production of false identification documents and possession of document-making equipment with the intent to produce false identification documents are also prohibited.

Section 1028(b)(2)(D) of the Identity Theft Act and section 1028(b)(1)(D) provides stringent penalties for identity theft involving property of value and the falsification of government-issued identification information, including imprisonment for not more than 15 years when such theft results in obtaining anything of value aggregating US$1000 or more over a one-year period. In other cases, the Act provides for imprisonment of not more than three years. Those persons who conspire or attempt to commit identity theft may be subject to the same penalties as those prescribed for substantive offences. Special penalties are provided for identity theft committed to facilitate drug trafficking, acts of violence and international terrorism. Section 1028(b) (3) provides that if the offence is committed to facilitate a drug crime, is connected to an act of violence or is a repeat offence, the maximum penalty will be imprisonment of 20 years. Section 1028 (d) (4) provides that where identity theft is related to international terrorism, the penalty will be imprisonment for not more than 25 years.

Canadian Law

The Canadian Criminal Code deals with identity theft in a number of provisions. Under the Canadian Criminal Code, personation within intent to gain advantage, property or to cause harm is an offence giving rise to imprisonment not exceeding 10 years or an offence punishable on summary conviction. It is also offence to personate another at an examination, and this is punishable on summary conviction. Anyone who gives a false name to a court, officer of a court or judge will be liable to imprisonment for not more than five years. Specific provisions are also included, directed at criminal impersonation. These provisions make it an offence for a person to personate any person, living or dead, with intent to gain advantage, obtain property or to cause disadvantage to another. These provisions also refer to personation that occurs at an official university or education examination. Further, any person who provides a false name to court or judge, or acts as surety for bail or confesses or consents to judgement is also guilty of an offence. Personation provisions are also included in the Public Service Employment Act, the National Defence Act and the Security of Information Act.

United States State Laws

The American States have a wide variety of offences that might be thought to fall under the general heading of identity theft. Aside from very specific offences, some of which are familiar to us, such as impersonating a police officer in the execution of his or her duty, and using a false social security card, the more general offences fall under the general description of the unauthorised use of personal identification information to pose as another person with the intent to defraud and to obtain money, credit, goods, services or anything of value, or to harass another. The emphasis tends to be on identity theft to obtain financial benefit (as opposed to, say, terrorism or offences of violence) and, in a number of cases, the need to prove that the benefit was actually obtained.

There is one very important lesson to be learned from the American State experience. In a large number of State jurisdictions, specific provision is made about the obtaining of a driver's licence or other form of identification for the sole purpose of misrepresenting age. This kind of provision recognises that this type of act commonly occurs, particularly in the context of under-age persons attempting to be admitted to age-restricted venues or to purchase age-restricted items, such as cigarettes or alcohol. The problem is dealt with by American law in a variety of ways from complete exemption to a reduction in penalty. The offences proposed here about identity fraud are about serious criminal behaviour and are not aimed at the defaulting juvenile trying to get legal but heavily-regulated things such as tobacco and alcohol.

United Kingdom

In a study conducted by the United Kingdom Cabinet Office on Identity Fraud in July 2002, it was recommended that specific laws on identity theft should be enacted. The study explained that even where identity theft is prohibited by other related offences, such as fraud or credit legislation, specific identity theft provisions aid prosecution and are more effective at reducing the prevalence of the crime. This recommendation has not been the subject of any action to date.

Current Australian Law

Australian law does not contain a general identity theft offence. There are, of course, specific examples of it at both State and Commonwealth level. For example, at State level, there is the familiar offence of impersonating a police officer (and similar

offences dealing with other officials), the general law of forgery and other related offences of dishonesty and the offences protecting the information required and retained in the Births, Deaths and Marriages Registration Act 1996. At Commonwealth level, the position is similar. For example, the Marriage Act 1961 contains a number of offences designed to protect the integrity of marriage information. Personal information is comprehensively dealt with by the Privacy Act 1988, but very much from the perspective of the protection of personal privacy. Its effect on information theft is incidental and, in any event, it explicitly preserves the effect of any possibly conflicting State laws. None of the existing State laws will be affected by what is proposed and there is no reasonable prospect that what is proposed would be in conflict with a Commonwealth law.

The Proposed Provisions

The proposed new offences are:

1. assuming a false identity or falsely pretending to have particular qualifications or to be entitled to act in a particular capacity and intending to commit or help commit a serious criminal offence;

2. making use of another's personal identification information intending to commit or help commit a serious criminal offence;

3. possessing or producing material that would enable someone to assume a false identity or exercise a false right of ownership intending to use it or allow another to use it for a criminal purpose;

4. selling or giving material that would enable someone to assume a false identity or represent a false right of ownership to another person knowing it is likely to be used for a criminal purpose; and

5. possessing equipment for making material that would enable someone to assume a false identity or exercise a false right of ownership intending to use it to commit one of these offences.

There are some matters of detail which require a little explanation. Identity theft extends to corporations, for reasons which have already been made clear. It also extends to the identities of people living or dead, or fictitious identities. These are preparatory offences and therefore the penalties for the major offences are linked to the penalties for attempts to commit the crime intended. On the other hand, it should not be possible to attempt an attempt, so liability for attempting to commit these crimes is precluded. Every attempt has been made to accommodate and anticipate technology, so digital signatures, biometric data, voice prints and encrypted data are dealt with.

It should be clear that these serious offences do not apply to the conduct of under-age persons attempting to be admitted to age-restricted venues or to purchase age-restricted items, such as cigarettes or alcohol. There are existing and appropriate offences to deal with such matters. So too existing minor offences of falsifying records on specific legislation dealing with particular records, such as births, death and marriages.

In addition, it is proposed to amend the Criminal Law (Sentencing) Act to give victims the right to get a certificate from a court so that they can prove that an offence has been committed against them. This is not limited to identity theft offences. It may be that, for example, the actual offence involved is forgery.

The Deputy Commissioner, Policy and Legal, Office of Consumer and Business Affairs, in consultation with the Registrar of Births, Deaths and Marriages, have met to discuss the proposal about putting identity theft crime material on the OCBA web-site. They will begin to define the scope of the project once the Bill has passed Parliament. The material likely to developed initially will include:

- what is ID crime, including a summary of the new laws;
- how does an individual or small business protect against it;
- what is the distinction between fraud and theft;
- What to do next if you are a victim.

In addition:

- SAPol has prepared a brochure on identity theft and OCBA may collaborate with it to disseminate that via the website and in hard copy too;
- There is a cross-government working party on identity theft and, in due course, OCBA may incorporate material from or links to other agencies such as Transport and Registrar of Lands about ID fraud involving land titles and drivers' licences;
- The Victims' Co-ordinator will convene an interdepartmental group to bring together practical strategies to help victims of identity theft.

I commend the Bill to members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that the Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Insertion of Part 5A

This clause inserts into the *Criminal Law Consolidation Act 1935* new Part 5A, containing sections prescribing offences involving the assumption of a false identity, the use of personal identification information and the production and possession of prohibited material.

Section 144A—Interpretation This section provides a number of new definitions necessary for the purposes of the measure. A person's *personal identification information* is information used to identify the person. A natural person's personal identification information includes the person's name, address, date of birth, driver's licence, passport, biometric data, credit or debit card information and digital signature. In the case of a body corporate, personal identification information includes the corporation's name, its ABN and the number of any bank account established in the body corporate's name or of any credit card issued to the body corporate. *Prohibited material* is anything that enables a person to assume a false identity or to exercise a right of ownership that belongs to someone else to funds, credit, information or any other financial or non-financial benefit. A *serious criminal offence* is an indictable offence or an offence prescribed by regulation for the purposes of the definition.

Section 144B—False identity etc A person who assumes a false identity or falsely pretends to have particular qualifications or to have, or be entitled to act in, a particular capacity, makes a false pretence to which section 144B applies. A person may make a false pretence to which the section applies even though he or she acts with the consent of the person whose identity is falsely assumed.

A person who makes a false pretence to which section 144B applies intending, by doing so, to commit, or facilitate the commission of, a serious criminal offence is guilty of an offence. The person is liable to the penalty appropriate to an attempt to commit the serious criminal offence.

Section 144C—Misuse of personal identification information A person who makes use of another person's personal identification information intending, by doing so, to commit, or facilitate the commission of, a serious criminal offence, is guilty of an offence. A person found guilty of this offence is liable to the penalty appropriate to an attempt to commit the serious criminal offence. The section applies irrespective of whether the person whose personal identification information is used is living or dead or has consented to the use of the personal identification information.

Section 144D—Prohibited material A person is guilty of an offence if he or she produces or has possession of prohibited material intending to use the material, or enable another person to use the material, for a criminal purpose. *Criminal purpose* is defined in section 144A to mean the purpose of committing, or facilitating the commission of, an offence.

If a person sells or gives prohibited material to another person, knowing that the other person is likely to use the material for criminal purpose, the person is guilty of an offence. A person who is in possession of equipment for making prohibited material intending to use it to commit an offence against the section is guilty of an offence.

The maximum penalty for an offence against section 144D is imprisonment for three years.

Section 144E—Attempt offence excluded A person cannot be convicted of an attempt to commit an offence against Part 5A.

Section 144F—Application of Part Part 5A does not apply to a misrepresentation by a person under the age of 18 for the purpose of obtaining alcohol, tobacco or any other product not lawfully available to persons under that age. The Part does not apply to a misrepresentation by a person under the age of 18 for the purpose of gaining entry to premises to which access is not ordinarily allowed to persons under that age. Part 5A does not

apply to any thing done by a person under 18 to facilitate such a misrepresentation.

Schedule 1—Related amendment

Clause 2 of Schedule 1 amends the *Criminal Law (Sentencing) Act 1988* by the insertion of a new section into Part 7 of the Act, which deals with restitution and compensation. New section 54 provides that a court that finds a person guilty of an offence involving the assumption of another person's identity or the use of another person's personal identification information may issue a certificate giving details of the offence, the name of the person whose identity has been assumed or personal identification information used, and any other matters considered by the court to be relevant.

The Hon. M.R. BUCKBY secured the adjournment of the debate.

STATUTES AMENDMENT (COMPUTER OFFENCES) BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935 and the Summary Offences Act 1953. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

If someone takes an axe to your computer and damages it, there can be no doubt that the person will be guilty of an appropriate offence of criminal damage. The law of criminal damage, as it has existed in the state from time to time since settlement, has of course concerned itself with physical damage to the property of others, but what if the offender hacks into your computer with a virus?

Mr MEIER: I rise on a point of order, sir. If the Attorney-General insists on reading something that we are capable of reading, I think all members should be here. Mr Speaker, I draw your attention to the state of the house.

A quorum having been formed:

The Hon. M.J. ATKINSON: But what if the offender hacks into your computer with a virus and destroys data instead? The legal situation is less clear. There is no physical damage to see but the damage in real terms to your property (the data) may be as great or greater. It is not just that in modern times society has moved to being ever more reliant on computers and computerised systems and information, although that is certainly true. Everyone knows that computers are central to the way—

The DEPUTY SPEAKER: Order! It is impossible to hear the Attorney. Would the member for Unley get closer to Unley and the member for Wright can move closer to the northern suburbs.

The Hon. M.J. ATKINSON: Mr Deputy Speaker, thank you for your careful attention to your legislative duties, a duty which the member for Goyder seeks to avoid. Everyone knows that computers are central to the way in which society functions—from major infrastructure to educational systems in primary school, to managing one's household budget. These are interests to be protected, and the protection of the interests is the principal aim of the bill.

But these realities should not be allowed to conceal a shift in the criminal law and the way in which offences are structured. In this, as in other areas of the criminal law, what is happening is that the idea of criminality is moving and, as in offences of dishonesty, has moved from a criminalisation of what George Fletcher, then Professor of Law at the University of California, Los Angeles, calls 'manifest criminality' to 'subjective criminality'. Put at its simplest, until comparatively recently, the criminal law punished as criminal what was objectively discernible as criminal when it happens, such as smashing a computer with an axe. Now we are moving towards subjective criminality with a focus not on what physically happened but on the protection of social interests against intentional or reckless threats. The bill follows the latter course.

The bill, then, proposes new offences to deal with computer damage and associated crime. They are:

1. Use of a computer with intention to commit or facilitate the commission of an offence.
2. Use of a computer with intention to commit or facilitate the commission of an offence outside the state.
3. Unauthorised modification of computer data.
4. Unauthorised impairment of electronic communication.
5. Possession of computer viruses with intent to commit a serious computer offence.

The bill also creates a new summary offence of unauthorised impairment of data held in a credit card or on computer disk or other device.

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

Leave granted.

The Current Criminal Law on Computer Damage in South Australia

The first concerted attempt at specifically computer based crime legislation was taken as a result of a decision of the Standing Committee of Attorneys-General in 1987. As a result of that decision, South Australia has a computer offence in the *Summary Offences Act*. The relevant section is:

44—Unlawful operation of computer system

(1) A person who, without proper authorisation, operates a restricted-access computer system is guilty of an offence.

(2) The penalty for an offence against subsection (1) is as follows:

(a) if the person who committed the offence did so with the intention of obtaining a benefit from, or causing a detriment to, another—division 7 fine or division 7 imprisonment.

(b) in any other case—division 7 fine.

(3) A computer system is a restricted-access computer system if—

(a) the use of a particular code of electronic impulses is necessary in order to obtain access to information stored in the system or operate the system in some other way; and

(b) the person who is entitled to control the use of the computer system has withheld knowledge of the code, or the means of producing it, from all other persons, or has taken steps to restrict knowledge of the code, or the means of producing it, to a particular authorised person or class of authorised persons.

This is a minor summary offence directed only at the protection of the security of restricted access computer systems from access which is unauthorised.

Modern Problems

However, it has become clear in more recent years that a more comprehensive and sophisticated criminal law regime is required.

Hacking

The phenomenon known as "hacking" or unauthorised access to a computer, whether that computer has been protected in any way or not, has been an issue for many years. The extent of "hacking" and the damage that it causes is unknown, largely because the principal targets of hackers, such as government, large corporations and businesses commonly fail to report the unauthorised access or the damage done for fear of advertising their vulnerability or otherwise jeopardising their reputation in, for example, the integrity of their data. Nevertheless, the rapid spread of (a) universal reliance on the hard drive for the storage of information, (b) widespread reliance by businesses and government on linked computer systems and (c) widespread connection to the Internet, has all made this kind of computer "crime" much more simple. In general terms, if anyone is connected to the Internet, an intelligent hacker can rifle through another's computer gaining access to that other's credit card number,

whatever is book-marked, and any or all files on the computer. Some do it for fun and the challenge, but others leave more damaging results. It is said, for example, that there has been a rise in instances of hacking by disgruntled ex-employees who change websites, change or damage corporate information and so on.

Viruses

Hacking can take a variety of forms. Hackers or intruders can and do implant or send viruses of a wide variety of kinds. Some are Trojan Horses which sit quietly in a computer primed to go off and destroy all data at some future time. Other kinds of Trojan Horses copy all data and transmit it to the intruder on a regular basis. The latter is particularly used in order to obtain credit card information from companies that engage in e-commerce. The most recent spate of such attacks have occurred via e-mail (for example, the so-called "Love Bug", September 11/Nimda, Fwd Joke, Melissa and ILOVEYOU viruses). In these cases, the opening of an e-mail triggered a virus which not only destroyed files but also self-replicated, by sending itself to every address in the address book on the recipient computer. In large firms, that could be thousands of computers. The results were catastrophic. In one case, it was estimated that over 1.5 million computers were infected in Australia alone and that the damage ran to $10 billion.

Pinging

There is another new form of computer damage that should be criminal. The polite name for it is denial of access—the colloquial name for it is "pinging". It is best illustrated by example. In February 2000, major websites such as Amazon.com were closed down by a massive torrent of false traffic. The false traffic can be and probably was, generated by computer software designed to send streams of information, estimated in this case to amount to one gigabyte a second to the selected victim site. The result may be that the website is slowed down intolerably, access denied to legitimate customers, or the website may have to be closed completely. It should be noted that, in traditional terms, these attacks cause no damage. Data is unimpaired. It is access that is the key issue. This electronic sabotage, and the potential for it to go unpunished if it can be detected, is intolerable in a society moving to widespread reliance on e-commerce.

More Recent Reforms

There has been some attempts at law reform in the recent past. In 1986, The Tasmanian Law Reform Commission produced a Report calling for an offence of unauthorised use of a computer, but this recommendation has not been implemented anywhere. In 1988, the Review of Commonwealth Criminal Law produced an *Interim Report on Computer Crime*, which led to legislation dealing with causing damage to computer data or programmes or obstructing the lawful use of computers in New South Wales, Tasmania, the Australian Capital Territory and, to its constitutional power, the Commonwealth. In 1989, the UK Law Commission produced a report on *Computer Misuse*, which resulted in the UK *Computer Misuse Act 1990*.

It may be noted that, when Parliament enacted the *Criminal Law Consolidation (Offences of Dishonesty) Amendment Act 2003*, it enacted provisions that deal specifically with dishonesty and computers. This Bill is directed, not at offences of dishonesty, but at offences of criminal damage.

The Model Criminal Code Project

In January 2000, the Model Criminal Code Officers Committee released a Discussion Paper on *Criminal Damage and Computer Offences*. The Discussion Paper took the view that, although it had been able to deal with the unique problems posed by the electronic age in the area of theft, fraud and related offences of dishonesty by the simple device of ensuring that the proposed legislation concentrated on the dishonesty and not the means by which the dishonesty was made manifest, the same could not be done in the context of criminal damage offences. In the context of criminal damage, the intangible nature of the idea of damage and the complicated interaction of forces by which damage, however defined, could be caused, made it necessary for a set of dedicated criminal offences to be proposed. After nationwide consultation, the Committee prepared its final drafting instructions and published its *Final Report* in January 2000.

The UK Report and the Act that followed it was the most comprehensive attempt to legislate upon the subject of criminal damage in the digitised environment, and it was, therefore, the logical starting point for the Committee's consideration of the issue. That starting point was consideration of criminal offences dealing with (a) protection of computerised data and programmes from unauthorised access; (b) prevention of crime consequential on unauthorised access; and (c) protection of data and programmes from corruption by hackers or by persons who put viruses or worms into circulation.

The Proposed Offences

The fundamental proposal of the Bill is the enactment, consistently with the MCCOC model recommendations, of five indictable offences and one summary offence dealing with computer damage.

It should be noted that a key to the proposed offences is the deliberate decision not to define the concept of what is and what is not "a computer". Apart from its being impossible, the intention is that the law, if enacted, should be as technologically neutral as possible. One characteristic of previous reform efforts in this area is the tendency to become obsolete quickly. In addition, any contemporary definition of the word "computer" would be likely to be both under-inclusive and over-inclusive. The possibility of under-inclusion will come about because of the likelihood of the rapid development of new technologies or a new generation of devices that any definition may not contemplate. The possibility of over-inclusion arises because computerised components are increasingly being used for the manufacture of everyday household appliances, vehicles, tools and other devices. For example, the burglar who enters a house and activates the burglar alarm may technically caused an unauthorised computer function, but it strains the purpose of these offences to convict a burglar of that offence. Hence, there is scope for a court to hold that, while the burglar alarm contains computerised components, it is not a "computer" for the purposes of this kind of offence.

The proposed offences are, in summary:

Use of a computer with intention to commit, or facilitate the commission of, an offence

It is proposed to make it an offence to use a computer to cause unauthorised access to or modification of computer data or an unauthorised impairment of electronic communication, knowing that the relevant behaviour is unauthorised and intending to commit, or facilitate the commission of, a serious offence. A serious offence means a major indictable offence. The offence is preparatory in nature, and so the applicable maximum penalty is the maximum penalty for an attempt to commit the offence concerned, but one cannot be guilty of attempting to commit this offence—for criminal liability should not be imposed for an attempt to commit an attempt.

Use of a computer with intention to commit, or facilitate the commission of, an offence outside the State

This offence replicates the offence just described, but adapts it to circumstances in which the offender, while in this State, intends to commit or does commit the damage outside the State. A separate offence is required to deal with the inter-jurisdictional ramifications of such an offence. This offence applies where the offender is physically present in this State and it is possible to arrest him or her. In the reverse situation, the offender is in another jurisdiction and this State cannot lay hands on him or her. In such cases, the general jurisdictional provisions of s 5C of the *Criminal Law Consolidation Act*, as recently reformed, will apply.

Unauthorised modification of computer data

This offence deals with a person who makes an unauthorised modification of computer data, knowing it is unauthorised and intending or being reckless as to, in essence, the damage caused. The offence is aimed directly at hacking. It will be punishable by a maximum term of imprisonment of 10 years.

Unauthorised impairment of electronic communication

By contrast, this offence, of the same seriousness, is aimed at hacking and other like activity that damages electronic communication between computers, including impeding access to the internet. Again, knowledge, intention or recklessness are required. This will catch the "pinging" described above. It will also catch other forms of electronic sabotage of a similar kind.

Possession of computer viruses with intent to commit a serious computer offence

This is a proposed lesser offence, with a maximum penalty of three years imprisonment, that is designed to criminalise behaviour preparatory to the serious computer offences. Because it is preparatory in that sense, it is narrowly confined. It is aimed at the production, supply and possession of computer viruses, hacking programmes and the like, and the instructions on how to commit such offences with intent to commit, or facilitate the commission of, a serious computer offence. The examples in the section give a clear picture of what is the central aim of the offences. Again, since these are preparatory offences, it should not be possible to be found guilty of attempting to commit these offences.

Unauthorised impairment of data held in a credit card, computer disk or other device

Lastly, the Bill proposes the enactment of a summary offence aimed at protecting credit cards, computer disks and other devices used to store data by electronic means. An example of one such other device would be a smart card. The offence is unauthorised impairment of that data, knowing it is unauthorised and intending or being reckless to harm or inconvenience that might result. It should be noted that the quite technical definition of "impairment" applying to the previous serous offences does not apply to this one, because it will be in a different Act—the *Summary Offences Act*. It is intended that, in this case, "impairment" will bear its ordinary dictionary meaning. It may be that this offence will overlap with identity theft proposals due to be introduced into Parliament shortly.

Supplementary provisions

The serious offences proposed are supported by quite technical definitions. These have been the subject of extensive technical consultation, both by MCCOC and in the development of the South Australian draft. Two of these matters require further explanation. First, it may be noted that the definition of "impairment of electronic communication" does not include mere interception. That caused some puzzlement on consultation. The reason for it is legal, not policy. The Commonwealth has jurisdiction over the interception of electronic communication and has exercised it exclusively in the *Telecommunications (Interception) Act 1979*. Therefore, any State regulation would be invalid.

Second, MCCOC found it impossible to define who was and who was not "authorised" for the purpose of the various offences because the notion of "ownership" of computer data is a very slippery one and the attempt to define it tends to be circular. This Bill attempts the task. It does so in two contexts—in the context of who is authorised for access to or modification of computer data and in the context of who is authorised for electronic communication.

The result is a Bill that is up to date and that plugs a gap in the law with the hope that its effectiveness will endure.

I commend the Bill to members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Insertion of Part 4A

This clause inserts a new Part 4A into the *Criminal Law Consolidation Act 1935* dealing with computer offences. Proposed new sections 86B, 86C and 86D are interpretative provisions that define terms used in the Part and specify what is meant by "unauthorised" access to or modification of computer data and "unauthorised" impairment of electronic communication where those terms are used within the Part. The provisions also make it clear that the onus of establishing that access to, or modification of, computer data was unauthorised, or that impairment of electronic communication was unauthorised, lies on the prosecution.

Proposed sections 86E and 86F set out two new offences dealing with use of a computer with intention to commit, or facilitate the commission of, a serious offence (ie. an offence punishable by at least 5 years imprisonment)—section 86E applying to offences within the jurisdiction and section 86F applying to offences outside the State. The provisions are intended to pick up conduct that would not amount to an attempt under the ordinary law and, as such, represent a broadening of the law of attempt where computers are concerned. The maximum penalty under each provision is the same as would apply in relation to an attempt.

Proposed section 86G creates an offence of causing an unauthorised modification of computer data. The offence only applies where the person knows the modification is unauthorised and intends to cause harm or inconvenience or is reckless as to the causing of harm or inconvenience. The maximum penalty is 10 years imprisonment.

Proposed section 86H creates the offence of causing an unauthorised impairment of electronic communication. As in proposed section 86G, the offence only applies where the person knows the impairment is unauthorised and intends to cause harm or inconvenience or is reckless as to the causing of harm or inconvenience. The maximum penalty, again, is 10 years imprisonment.

Proposed section 86I deals with producing, supplying or obtaining, or being in possession of, proscribed data or a proscribed object intending to commit or facilitate the commission of a serious computer offence (being an offence against section 86E, 86F, 86G or 86H). The maximum penalty is imprisonment for 3 years.

Part 3—Amendment of *Summary Offences Act 1953*

5—Insertion of section 44A

This clause proposes the insertion of a new section into the *Summary Offences Act 1953*. Proposed section 44A creates an offence of causing an unauthorised impairment of data held in a credit card or on a computer disk or other device used to store data by electronic means, knowing that the impairment is unauthorised and intending to cause harm or inconvenience, or being reckless as to the causing of harm or inconvenience. The maximum penalty for this offence is two years imprisonment.

The Hon. M.R. BUCKBY secured the adjournment of the debate.

SUMMARY OFFENCES (CONSUMPTION OF DOGS AND CATS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Summary Offences Act 1953. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

The bill seeks to amend the Summary Offences Act to create offences to prohibit the consumption of dogs and cats. In addition to consumption, the bill creates offences of killing, processing or supplying dog or cat meat for human consumption. These offences all require a mental element.

Mr Snelling interjecting:

The DEPUTY SPEAKER: Order, the member for Playford!

The Hon. M.J. ATKINSON: Any prosecution for an offence must establish that the offences were committed knowingly. The maximum penalty is to be a fine of $1 250. The practice of eating dog or cat meat is common in several Asian countries, most notably China, Vietnam and Korea. The government is not aware of any evidence that this is common or occurs at all in this state or even in Australia. The matter was raised last year as the result of a reported incident in Victoria. Given the acceptance of the practice in some countries, it cannot be ruled out that a small number of people might eat cat or dog meat despite a high level of public opposition in Australia.

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

Leave granted.

The RSPCA has long supported a prohibition. Its published policy on *Companion Animals* says:

> RSPCA Australia deplores the use of dogs and cats as food in that they are first and foremost companion animals and close working partners of humans.

Existing legislation

The *Meat Hygiene Act 1994* and related national accreditation processes provide for the commercial processing of meat, and the *Food Regulations 2002* regulate what may be sold as food. Under this legislation, it is illegal to process commercially, or sell, dog or cat meat in South Australia for human consumption. However neither the *Meat Hygiene Act* nor the *Food Act* prohibits the backyard or non-commercial slaughter of any animal for human consumption.

Apart from animals protected under the *National Parks and Wildlife Act 1972*, it is not an offence to kill any other animal, unless in so doing, a person "deliberately or unreasonably causes the animal unnecessary pain" contrary to section 13 of the *Prevention of Cruelty to Animals Act 1985*. There is no statute that makes it an offence to eat any animal.

Other species

In drafting the Bill, consideration was given to the question of whether a prohibition should be confined to dogs and cats, or

whether it should be broader to encompass some or all "pets" or "companion animals".

Animals are kept in widely varying conditions. Animals that are handled, hand-fed, or otherwise domesticated may nevertheless be slaughtered for food, especially on farms. Conversely some animals that their owners call "pets" might never be touched, or allowed to come inside a house.

It is, therefore, very difficult to draft a definition of a ***pet*** or a ***companion animal*** that does not inadvertently include some animals kept as livestock, in close proximity to humans. Even if an adequate definition of ***pet*** could be drafted, and only ***pets*** so defined were to be protected, there would be nothing to stop persons keeping dogs or cats in conditions comparable to those of other livestock such as pigs or poultry, and then slaughtering them for food.

Therefore, unless all backyard or farm slaughter of animals is to be prohibited, no legislation can adequately define a ***pet*** or ***companion animal*** for this purpose. Rather, this Bill selects two particular species, dogs and cats, and singles them out for protection because of their unique place in our society.

According to 'PetNet' (operated by the Petcare Information and Advisory Service Australia Pty Ltd) in 1998, 43% of South Australian households had one or more dogs as pets. 32% had one or more cats. Dogs and cats attract by far the most spending on pets. In 1998, South Australians spent $173 million caring for their pet dogs, $80 million on their pet cats, and only $23 million on all other pets combined. This is a reliable indicator of the cultural regard in our society for dogs and cats above all other animals.

For these reasons, the Bill proposes to create offences applying to meat from cats and dogs only.

What type of offence?

The act of consuming dog or cat meat, if it occurs at all, will be difficult to detect and therefore to prosecute. However consumption of dog or cat meat is only one of a series of actions that can be legislatively controlled. Therefore, in addition to consumption, the Bill creates offences of killing, processing or supplying dog or cat meat.

These offences all require a mental element. That is to say, any prosecution for an offence must establish that the offences were committed knowingly. Therefore a person who kills, processes, supplies or consumes dog or cat meat will not be guilty of an offence if he or she did not know that the animal, the carcass or the meat was that of a dog or cat. The onus of establishing both the act and the mental element would be on the prosecution.

The maximum penalty for any of these offences is a fine of $1 250. This is comparable to penalties for other comparable offences in the *Summary Offences Act*. I commend the Bill to members.

EXPLANATION OF CLAUSES

Part 1—Preliminary
1—Short title
2—Commencement
3—Amendment provisions
These clauses are formal.
Part 2—Amendment of *Summary Offences Act 1953*
4—Insertion of section 10
Proposed new section 10 provides that a person who knowingly—

(a) kills or otherwise processes a dog or cat for the purpose of human consumption; or

(b) supplies to another person a dog or cat (whether alive or not), or meat from a dog or cat, for the purpose of human consumption; or

(c) consumes meat from a dog or cat,

is guilty of an offence, the maximum penalty for which is a fine of $1 250.

The Hon. M.R. BUCKBY secured the adjournment of the debate.

EDUCATION (MATERIALS AND SERVICES CHARGES) AMENDMENT BILL

The Hon. P.L. WHITE (Minister for Education and Children's Services) obtained leave and introduced a bill for an act to amend the Education Act 1972. Read a first time.

The Hon. P.L. WHITE: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to amend the *Education Act 1972* to enable the ongoing charge for materials and services for students in South Australian (SA) Government schools.

The materials and services charge in SA came about in the 1960s as an alternative to the individual purchase by parents of books, stationery and other materials not provided as part of compulsory education.

This took advantage of schools' bulk purchasing power, allowing families to buy an affordable pack of materials directly from the school at enrolment time.

In October 2000, the *Education (Councils and Charges) Amendment Bill 2000* was introduced into Parliament by the previous Government to provide authority for the charging of fees to students of SA Government schools. A sunset clause was inserted into the Act to ensure the fee charging provisions would expire on 1 December 2002.

The *Education (Charges) Amendment Act 2002* extended the expiry date to 1 December 2003. The *Education (Materials and Services Charges) Amendment Bill 2003* will remove this clause, thereby ensuring the continuation of charges to students attending SA Government schools.

Section 106A of the *Education (Materials and Services Charges) Amendment Bill 2003* provides for the continuation of the charging of materials and services charges.

The Bill provides for Administrative Instructions and Guidelines to specify the categories of materials and services which will be covered by the charge provided to or for students in connection with courses of instruction provided in accordance with the curriculum determined by the Director-General of Education.

Continuation of the collection of the materials and services charges is provided for in the Bill. The Bill provides that school councils may recover as a debt the amount of up to $166 for primary school students and $223 for secondary school students. Also, if a student or parent agrees to pay for non-essential materials or services, they must do so and this amount is recoverable as debt due to school councils.

The fees of $166 and $223 represent an increase on the 2003 fees based on June quarter inflation figure. This is lower than the fee cap described in the current legislation which amounts to fees of $191 and $255 for 2004. The amount of these materials and services charges, considered necessary for curricular activities that form part of the curriculum, as determined by the Director General, will be indexed by the amount of the relevant indexation factor from 2004.

The indexation of charges will not impact on the most disadvantaged families. For the first time School Card payments will be indexed. The payments for 2004 have been increased and this is the first increase to that payment in six years.

Where inflation remains static or decreases, the relevant indexation factor for calculation of materials and services charges will be one, which will have the effect of maintaining the same fee levels as the previous school year.

No student will be denied access to materials and services essential to participation in the core curriculum of the school by reason of non-payment of the materials and services charge.

Further, the Bill provides additional clarity for schools and parents by setting out categories of items which may not be covered by the materials and services charge, for example, teachers' salaries.

The Bill continues previous equity provisions for families in hardship whereby the head teacher, subject to directions of the Director-General, may approve the payment of materials and services charges by instalment or waive, reduce or refund the charges in whole or in part.

To improve transparency, the Bill provides for more informative invoices for materials and services to parents, including those materials and services covered as part of the charge and those which will not be provided if the charge is not paid in whole or in part.

Section 106B of the *Education Act 1972* will continue unamended. This provides for the charging of tuition and other fees to students resident in other states and studying offshore in SA Government schools.

Minor changes have been made to section 106C to ensure consistency with the definition of materials and services set out in 106A, as amended.

Section 107(2)(h) has been amended to extend the ability for Regulations to be made for the provision of materials and services for students at any school.

I commend the Bill to members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal. The measure is proposed to commence on 30 November 2003.

Part 2—Amendment of *Education Act 1972*

4—Substitution of section 106A

The new section provides a different approach to the materials and services charge for curricular activities. It recognises that a government school may impose materials and services charges at any time throughout the year for any curricular activity and contemplates administrative instructions about the materials and services for which a charge may be imposed. The amount of a materials and services charge is required to be approved by the school council.

The section requires the notice of charges to separately specify the amount that is payable for materials and services that will only be provided to or for the student on payment or an agreement for payment. Subsection (9) provides that a student is not to be refused materials or services necessary for curricular activities that form part of the core of activities in which students are required to participate by reason of non-payment of a materials and services charge.

Under the section, a materials and services charge is recoverable to the extent that, disregarding any amounts separately identified as optional in the notice of charges, it does not exceed for a calendar year an indexed sum ($166 in 2004 for a primary school student and $223 in 2003 for a secondary school student) and, insofar as it relates to materials and services identified as optional, to the extent that the person liable for the charge has agreed to pay. As in the current provisions the cap can be altered by regulation.

5—Amendment of section 106C—Certain other payments unaffected

The amendment removes the reference to payments for curricular activities that do not form part of the core of activities in which students are required to participate. This matter is dealt with in the new section 106A.

6—Repeal of section 106D

This clause removes the expiry provision for 106A to 106C.

7—Amendment of section 107—Regulations

The regulation making power is amended to expand the reference to books and materials to the types of items that may be covered by a materials and services charges. Regulations may be made about the provision of materials and services to pupils at any school.

The Hon. M.R. BUCKBY secured the adjournment of the debate.

STATUTES AMENDMENT (CO-MANAGED PARKS) BILL

The Hon. G.M. GUNN: Mr Deputy Speaker, I rise on a point of order. We have just had introduced to the house the Statutes Amendment (Co-managed Parks) Bill 2003 which is an act to amend the Maralinga Tjarutja Lands Act and the National Parks and Wildlife Act. I seek a ruling from you, sir, as to whether this is a hybrid bill and, if so, whether it will be referred to a select committee. The legislation confers upon a particular group of people in South Australia a right which does not generally apply to the rest of the community.

The DEPUTY SPEAKER: The issue that the member for Stuart has raised will be examined and the chair will rule on it at a later date.

EMERGENCY SERVICES FUNDING (VALIDATION OF LEVY ON VEHICLES AND VESSELS) BILL

The Hon. K.O. FOLEY (Deputy Premier) obtained leave and introduced a bill for an act to validate certain administrative acts and payments and to make related amendments to the Emergency Services Funding Act 1998. Read a first time.

The Hon. K.O. FOLEY: I move:

That this bill be now read a second time.

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

Leave granted.

The *Emergency Services Funding (Validation of Levy on Vehicles and Vessels) Bill 2003* addresses a number of urgent matters.

The Bill will validate ESL collections on motor vehicles and vessels in respect of the financial years 2001-02, 2002-03 and 2003-04; enable the collection of ESL on motor vehicles and vessels for the remainder of the 2003-04 financial year including on additional premium class codes proposed to be introduced for Compulsory Third Party insurance from 1 January 2004; and allow ESL amounts on motor vehicles and vessels in place at the commencement of a financial year to have ongoing application to vehicles that shift from an existing premium class code to a new premium class code part way through a financial year.

ESL rates applying to motor vehicles and vessels are set by notice in the Gazette although remissions provided by means of Regulations under the *Emergency Services Funding Act 1998* reduce the effective levy payable by motor vehicle and vessel owners. The effective levy rate payable by most motor vehicle owners is $24 comprising a gazetted rate of $32 offset by an $8 remission which the Consolidated Account funds.

Gazetted ESL rates have remained unchanged since 1999-2000 when the ESL was introduced. The level of remissions has also remained unchanged since their introduction in 2000-01.

Although ESL rates on motor vehicles and vessels have remained unchanged, the *Emergency Services Funding Act 1998* requires a notice to be published before the commencement of the financial year or financial years in relation to which the notice applies. The notice must specify the ESL payable for each CTP class of motor vehicle.

The original notice published on 2 June 1999 had application only for financial years 1999-2000 and 2000-2001.

A new notice should have been published before the 2001-02 year but was not. Nor has a notice been gazetted for any subsequent year.

As a result of this administrative oversight, ESL on motor vehicles and vessels has been collected invalidly from the 2001-02 financial year to date.

The *Emergency Services Funding (Validation of Levy on Vehicles and Vessels) Bill 2003* will rectify the invalid collection of ESL since 1 July 2001 and provide the Government with the power to collect ESL on motor vehicles and vessels for the remainder of the 2003-04 financial year.

The *Emergency Services Funding Act 1998* is also being amended to clarify that in the event of premium class code changes being introduced part way through a financial year the ESL applicable to vehicles transferring from an existing to a new premium class code will have ongoing application.

This will enable ESL to be collected, at existing rates, on new compulsory third party (CTP) premium classes that will be introduced as part of a CTP dual premium structure proposed for introduction from 1 January 2004.

At the time CTP premiums were last adjusted, it was flagged that a dual premium structure differentiating between vehicles used for commercial or private purposes was likely to be implemented by 1 January 2004. This follows the expiry on 30 June 2003 of transitional arrangements that had applied to the GST treatment of CTP insurance.

Vehicles that shift to a new premium class will continue to be eligible for an ESL remission at existing rates. The *Emergency Services Funding (Remissions- Motor Vehicles and Vessels) Regulations 2000* will be varied to make it clear that this is the case. I commend the Bill to members.

EXPLANATION OF CLAUSES

1—Short title

This clause is formal.

2—Interpretation

This clause provides definitions of a number of terms used in the measure. A reference in the measure to "the Act" is (unless the contrary intention appears) a reference to the *Emergency Services Funding Act 1998*. *Levy* means the emergency services levy under Part 3 Division 2 of the *Emergency Services Funding Act 1998*. A reference in the measure to a notice is a reference to the notice published in the Gazette on 2 June 1999 by which the amount of the levy under Part 3 Division 2 of the Act was declared by the Governor. *Relevant financial years* are the 2001/2002, 2002/2003 and 2003/2004 financial years.

3—Validation of certain administrative acts and payments

This clause provides that the notice (despite its terms and despite any provision of the Act) applies in all respects, and will be taken to have always so applied, in relation to the 2001/2002, 2002/2003 and 2003/2004 financial years. The notice applies, and is taken to have always done so, as if those financial years were specified in the notice as financial years to which the notice applies.

Anything done or omitted to be done prior to the commencement of section 3 in or with respect to the declaration under section 24 of the Act of the amount of the levy, or the collection and payment of the levy, is, to the extent of any invalidity that would arise but for section 3, to be taken to have been validly done or omitted to be done, as the case may require.

Schedule 1—Related amendment

Clause 2 of Schedule 1 amends section 24 of the *Emergency Services Funding Act 1998*. Under section 24, the Governor may, by notice in the Gazette, declare the amount of the levy payable under Part 3 Division 2 of the Act. Subsection (2) provides, among other matters, that the notice must divide motor vehicles into the same classes as the Premium Class Code published by the Motor Accident Commission and must specify the amount of the levy in respect of each class.

This amendment to section 24 clarifies that the classes into which motor vehicles are divided under subsection (2)(a) are the same classes as the Premium Class Code *as in force at the time of publication of the notice*. The amount of the levy as specified in the notice in respect of a particular class will be the amount of the levy for the financial year or years to which the notice applies. A change in motor vehicle classifications under the Premium Class Code during the course of that financial year or years will have no effect on the amount of the levy payable for that year or years.

The Hon. M.R. BUCKBY secured the adjournment of the debate.

PUBLIC SERVICE, SALARIES

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: Late yesterday I made a ministerial statement to the house about departmental salaries in response to a question from the Leader of the Opposition. The statement was based upon advice received from my department. I am now advised that I may have inadvertently misled the house, and for this I apologise. In fact, neither the facts related by the leader nor the facts related in my ministerial statement reflected the true state of affairs.

The original question was about employees whose individual remuneration exceeded $100 000. It is correct that the Auditor-General's annual report to parliament showed the Attorney-General's Department employing 124 such employees in the 2002-03 financial year. It is also true that this is an increase of 48 from the numbers reported in the statements for the previous year. The 48 employees included in the financial statements for the Attorney-General's department can be explained. Fifteen employees of the Residential Tenancies Tribunal would have been entitled to remuneration exceeding $100 000 if they had worked full-time. These employees worked only part-time and they did not, in fact, earn over $100 000 during the financial year. Five employees from the offices of three ministers were, for the first time, deemed to be within the reporting entity of the Attorney-General's Department.

The Office of Multicultural Affairs was transferred to the Attorney-General's Department, bringing one such employee. One officer, formerly of the Office of Recreation and Sport, was seconded to the Justice Business Reform Unit but his wages were reimbursed by his former office. Two employees were erroneously included: one was from the Legal Services Commission and the other was on leave without pay during the entire financial year. One employee of the Public Trustee was, for the first time, included when the Public Trustee has its own reporting entity. Finally, the remuneration of 23 employees marginally exceeded the $100 000 threshold for the first time during 2002-03 owing to the normal public service pay increases. These people are mostly senior lawyers in the Crown Solicitor's office and the Director of Public Prosecutions, who perform the core work of the department—the provision of high level legal services to government and the prosecution of criminals. Hardly fat cats.

The department converted to a new payroll system during 2002-03. The identified errors were caused by inaccurate report design and it is not a reflection of data integrity within the payroll system. These errors do not affect the financial performance of the Attorney-General's Department and will be rectified for future reporting. In future financial statements the department will explain and reconcile the position about officers paid through the department's payroll system and who are referred to in the financial statements of other reporting entities.

It can be seen that the increase in figures is largely about accounting oddities and a group of existing senior staff performing core work whose pay increase took them over the line for the first time.

SOUTHERN CROSS REPLICA AIRCRAFT

The Hon. J.D. HILL (Minister for Environment and Conservation): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: I wish to update the house in relation to the current process being undertaken by Arts SA on behalf of the government to give the Southern Cross replica aircraft to a not-for-profit community organisation. By way of background, an advertisement was placed in *The Advertiser* on 10 June this year seeking proposals from organisations interested in owning and managing the aircraft, with formal offers required by 8 July 2003. Prior to the receipt of offers, numerous discussions were had with interested groups, and the viewing of the aircraft was held on 24 June 2003 at Parafield Airport, where it is currently based.

Four offers were received and evaluated against the conditions required by the government as outlined in the advertisement. These were: a demonstrated ability to repair the aircraft; the aircraft to be owned and operated from South Australia; the aircraft to be flown in South Australian skies for the benefit of the public of South Australia; and demonstrated financial viability and sustainability of the bidding organisation.

Throughout the process, advice was sought from both Government Auctions SA and the Crown Solicitor's Office on procedural and probity issues and legal issues. Notwith-

standing this, I sought the advice of the Prudential Management Group to ensure that—

The Hon. M.J. Atkinson: Hear, hear!

The Hon. J.D. HILL: Indeed. This was to ensure that the process undertaken to transfer the ownership and operation of the Southern Cross replica aircraft has been transparent, fair and reasonable. The Prudential Management Group drew attention to the advertisement which did not clearly state the quantum of once-off government funding available to assist in the repair of the aircraft. While I am confident that the ambiguities identified by the Prudential Management Group were rectified through direct discussion between Arts SA and the respective applicants, I nevertheless want to ensure that none of the applicants was misled or might have omitted relevant information from their respective offers.

Therefore, in the interests of fairness and transparency of process, I have requested Arts SA to write to each of the applicants to clarify any ambiguities in the original advertisement and to give them opportunity should they so wish to submit any amendments to their original offers or any additional information they may wish to provide in support of their original offers. The applicants will be given two weeks to provide this information. I expect to be in a position soon thereafter to announce the successful applicant.

STATUTE LAW REVISION BILL

Second reading.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That this bill now be read a second time.

The bill contains various amendments of a superficial nature to more than 60 acts. The amendments deal with minor structural anomalies in acts. Centred, italic or other unstructured headings are deleted or converted to Part or Division headings. A Part heading is inserted before section 1 where such a heading is missing. Provisions that do not clearly fall in part of a traditional structure are relocated or reworked so as to conform. Where an act is being amended to correct a structural anomaly, descriptive headings are supplied where these are missing and non-standard paragraph numbering is converted to standard numbering. I seek leave to insert the remainder of the second reading explanation in Hansard without my reading it.

Leave granted.

The opportunity has also been taken to remove obsolete provisions from the Acts being amended for the above purposes (such as commencement provisions, provisions stating that offences are summary offences and repealing or amending provisions that have come into operation and are not associated with transitional provisions that may still be active).

Care has been taken in preparing this Bill not to make any substantive changes to the law contained in the various Acts amended.

The Bill also repeals the following Acts: the *Commonwealth and State Housing Agreement Act 1945*, the *Commonwealth and State Housing Supplemental Agreement Act 1954*, the *Homes Act 1941*, the *Loans for Water Conservation Act 1948* and the *Native Industries Encouragement Act 1872* and the *White Phosphorous Matches Prohibition Act 1915*. These Acts are obsolete. The subject matter of the last Act is now a matter for the trade standards or dangerous substances area. The other Acts all relate to financial arrangements that have long ceased to have any practical relevance.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal

Clause 3: Amendment of Acts specified in Schedule 1

This clause effects the amendments contained in Schedule 1. Subclause (2) is a device for avoiding conflict between the amendments to an Act that may intervene between the passing of this Act and the bringing into operation of the Schedules.

Clause 4: Repeal of Acts specified in Schedule 2

This clause effects the repeals contained in Schedule 2.

The Hon. M.R. BUCKBY secured the adjournment of the debate.

PASSENGER TRANSPORT (DISSOLUTION OF THE PASSENGER TRANSPORT BOARD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 September. Page 43.)

The Hon. M.R. BUCKBY (Light): We finally get around to this bill. I rise in support of the bill and flag also that I have some amendments to move during the committee stage. I also flag that the Hon. Angus Redford in another place has discussed some issues with me regarding taxis that he wishes to raise in the upper house. We have yet to have that discussion between himself and myself—

The Hon. M.J. Atkinson: And me—'myself' is reflexive.

The Hon. M.R. BUCKBY: Exactly—between himself and me, but that will be developed in the other place when this bill moves to the upper house.

The Passenger Transport Board was set up under a passenger transport act. When it was set up, the idea of establishing a Passenger Transport Board was to focus on public transport; to add some additional expertise to the board; and particularly to remove any perceived conflicts of interest for the minister, essentially depoliticising issues such as fares, commercial contracts and enforcement.

If we look at the performance of the Public Transport Board over the time that it has been in operation, one can say that patronage of public transport has risen and is growing, as the minister has said himself, at around 3 per cent per year, which is very good. The contracts that were enacted by the previous Liberal government are working and delivering savings of some $7 million per year to that government and to this government. Customer satisfaction is high, as is related in the budget documents, particularly when we looked through those documents in estimates.

In agreeing to this bill, it would be remiss of me not to raise what I believe are some of the risks in undertaking this action. Whilst I support it and recognise what the minister hopes to do, I want to raise a few issues of which I think the house needs to be reminded.

If this bill is passed in both houses, there is a risk that the special focus on passenger transport will be lost because of the office of public transport, as it will become, being subsumed within the Department of Transport. It will then be part of the department and, as a result, it may not get the same sort of profile as it has as a specific public transport board operating one step aside from the minister and from the department. The expertise that has been placed on the board of people involved in the industry would no longer be available, and the ability to track investment in passenger transport could also be diminished.

However, more particularly and, I think, most importantly, it creates a series of actual or perceived conflicts of interest for the minister. Those are, I believe, as follows. The minister is the signatory to the contracts for the provision of services and the provider of those services through TransAdelaide. So,

one has to look at his role as the signatory to those contracts and also at his responsibility with TransAdelaide and whether a conflict of interest could arise in the minister performing both roles.

Similarly, the minister is also the Minister for Industrial Relations and signatory to the service contracts that have important industrial relations as part of them. Again, that potential for a conflict of interest is raised and the minister, I believe, will have to be very careful in the way that he deals with any issues that arise in this area. Rather than focus on policy setting, funding and monitoring outcomes, the minister, as the signatory to those service contracts, needs to be engaged in all the commercial negotiations, which is also in conflict with his responsibilities for TransAdelaide.

It involves the minister in a very hands-on way. Whereas, when the board has been separate and these contracts have been at arm's length from the minister, it has meant that there can be no conflict of interest. When the Passenger Transport Board was set up, the fact of these contracts being called for tender and also their being awarded when the minister is not the person who was signing off or being directly involved in the negotiations was seen as an advantage.

Be that as it may, the Passenger Transport Board has had its fair share of criticism of the way that it has handled some matters. However, I can say that in my area there have certainly been advantages in the contracts that have been let by the Passenger Transport Board in supplying public transport, particularly in the Light electorate. I have appreciated the work that has been done by the board in dealing with a difficult area, where it has tried to establish demand for services, particularly in the Gawler area, and to give some sort of public transport service to the area. I know that the PTB has invested a significant amount of money in trying to come up with the right outcome to supply a service to patrons within Gawler.

The Passenger Transport Board has been criticised for its handling of Access Cabs, but it has tried to do its best. I think that we have some better outcomes at the moment and, with Adelaide Independent Taxis now taking over the contract, certainly I am not getting the complaints in my office that I was before. So, it would appear as though they are doing a good job. I am pleased about that because, if that is occurring, the service to the customers has improved, and that is what it is all about. That area is one which is not easy to deal with because, in terms of the fares that are collected, it is not always a profitable venture, so to speak, for the taxi operator. So, I think that that has obviously improved.

Where the Passenger Transport Board has been very high in its profile in terms of the public having access to complaints either about the public transport system (buses, for example), or about taxis, or about Access Cabs, when it is subsumed within the bureaucracy I am concerned about whether the same level of attention will be given to those members of the public who have a complaint about a particular public service or taxi service that has been given. I think that that is one area in which there has been an advantage with the Passenger Transport Board being at arm's length from the department, in that the public has been able to approach the board and raise issues with it directly and, as a result, have their complaint dealt with.

I see some risk in the fact that, when it goes into the bureaucracy, it may well be lost, so to speak, within that bureaucracy and those complaints, or those concerns, will not be dealt with as much seriousness. I think that is a challenge, minister, to you and to your department to ensure that the public does have open access to be able to register any concerns or complaints, or matters that they wish to raise about public transport, and know that they will be dealt with seriously and efficiently.

One of the other areas that the Passenger Transport Board of course did introduce was that of accreditation. I think that that has been a particularly important addition to passenger transport in South Australia, because it has meant that anybody who is going to ferry the public around in either a taxi, in a bus, in a chauffeur driven vehicle, or whatever, has to be accredited, so that the service that is delivered to the public is one of a high standard and that there are certain standards in place that the public can demand and, if they are not met, they have the ability to approach the Passenger Transport Board and report a particular incident, or an area in which they believe that that standard is not being met.

Again, that area will have to be monitored closely by the department to ensure that the public still can have that confidence. I know that the minister has said that there will be no staff losses in this event occurring and that the unit will operate as a separate unit within the department so that they will still operate basically in the same manner but just within the department. I trust that that will occur, because it is important that it does. If that does not happen, I can see where we could run into problems with the public.

The removal of the public interest provision is also interesting, because the bill allows for it. The Auditor-General has advised that all ministers are bound never to act other than in the public interest and, with the minister to assume the public transport board functions, the provision is not now necessary. However, considering the potentially conflicting roles and responsibilities of the minister, and in terms of both setting the terms and administering the contracts, there should be some concern over the removal of this provision. That is the reason why I will introduce some amendments later—to ensure that there are checks and balances in the system so that the public can be confident that that public interest is being served, to ensure that the parliament is reported to and has access to those contracts and the tenders, and to ensure also that all these matters are done with the public interest in mind. I conclude my comments and will move those amendments during the committee stage.

The Hon. R.B. SUCH (Fisher): I support this bill. It is a positive move. I am particularly keen to see the establishment of the Passenger Transport Standards Committee; that is a commendable initiative to be incorporated in this legislation. Overall, we have a good public transport system in metropolitan Adelaide. It is good in the sense of the vehicles and staff, given that we have a relatively low population spread over a large area. Where the system falls down is that it is essentially a disjointed public transport system. Whilst the components within it individually and separately might be good, it is not as integrated as it could or should be. That has been exacerbated by the awarding of separate contracts for areas of the bus routes. We have an O-Bahn system which is interesting and effective, but it is not really integrated to any complete extent with the rest of the system. We have several bus networks run by separate operators. We also have trains, and we have the Glenelg tram.

In some ways we have gone backwards; for example, I usually get off at Coromandel station. The other day I was giving advice to some people who were travelling to Blackwood for the first time. They said that they wanted to go to Coromandel Valley. I said, 'Hopefully you will be able to

catch a coordinated bus.' The passenger service attendant on the train said, 'They no longer coordinate, because the bus service is privately operated and TransAdelaide runs the train.' When it was under one umbrella, the buses met the trains. We no longer have even that degree of coordination. That is another example of how we have a disjointed system. In the long term, we should move back more towards a system that is genuinely coordinated and get rid of the various disjointed aspects.

Mention was made in the media recently—even today, I think—about the need for more designated bus lanes. I realise that that comes outside some of the responsibilities of this bill in particular. The issue goes wider than just the matter of bus lanes and traffic lights as they affect bus lanes. I would like to see greater coordination of traffic lights in general in the metropolitan area, including the ones under the jurisdiction of the Adelaide City Council. As I said earlier, this is more the responsibility of the Department of Road Transport per se.

I am sure members have experienced the ridiculous situation where they are sitting, waiting at lights and there is no-one else around and the lights have not responded to the fact that traffic flow has changed significantly. We could do a lot more in that respect.

You can make a case for whether or not the Adelaide City Council traffic lights and related infrastructure should be part of Department of Road Transport. What is more important is that, whoever runs them, whether it is Adelaide City Council in the CBD area and in its wider council jurisdiction or the Department of Road Transport, we could do a lot better with some of the computer technology which is available today and which could result in traffic lights that respond more quickly to the actual demand, the actual traffic flow, at a particular time.

Another issue which has been a hobbyhorse of mine for a long time and which has still not been resolved is the lack of a good quality central bus station to serve people not only in Adelaide but from country areas, as well as interstate travellers. I suggested to a previous minister for transport that, given that buses could come through near the Festival Centre, perhaps the Adelaide Railway Station could become the central bus station, as it has all the facilities and can link into Keswick and the suburban rail stations, and so on. I was not successful in that.

I understand that the Arts Department takes up a lot of the Adelaide Railway Station and, although I make no criticism of it per se, it was an opportunity lost in relation to that facility, given that work is being undertaken on Festival Drive and nearby which would have permitted buses to come in off King William Street and exit via Morphett Street.

So we still have that issue—the ongoing saga of a lack of a central bus station. We still have the problem of the Keswick terminal which is not integrated into Adelaide itself. That highlights the problem of our public transport system—that it is scattered and is not integrated. We have missed some opportunities and they are not easy now to restore. For example, we have big shopping centres which are not integrated into the public transport system. This has happened in Melbourne at Box Hill, where the trains and the buses all feed into the Box Hill shopping centre. We have missed that opportunity at Marion. I do not know whether it can be restored. We should be more positive and energetic in looking for creative approaches to public transport such as linking into shopping centres and the like.

I note in the transport plan reference to making greater use of the Tonsley rail station. That is an ideal location for a more integrated connection for commuters who can park their cars but also linking in with bus services, and so on. It should have happened years ago. We have some infrastructure there linking Tonsley to the city which is grossly under utilised.

The local papers that serve my electorate this week have a negative article in each about railway stations, in particular on the Belair line but also on some other lines, suggesting that they are third world status. It is somewhat of an exaggeration and a bit over the top. Some need improvement, but it is fair to say that TransAdelaide has been making significant progress, costly as it may be in terms of providing additional parking, improved lighting, security, fencing and so on, but a lot more needs to be done. If you look at Blackwood, in fairness to the *Hills Valley Messenger* it rated Blackwood with an almost perfect score. It is an example of what can be done to increase patronage and make public transport usage more appealing.

To mention a couple of other points quickly, more energy needs to be put into promoting public transport. I would like to see campaigns like 'get on board' and the offering of free tickets to people through the radio stations and getting people who have never used public transport to use it. People who have not travelled on our trains in recent years would be amazed at the comfort and quality of those trains, the air-conditioning, seats and so on. In some ways some parts of our public transport system are a secret that should not be. Where I have encouraged people to use public transport they have been amazed at how quickly one can get into the city from Blackwood in peak hour on a train in absolute comfort. More people should be encouraged through incentives. Whether this new body or some other body can do it, I do not care, but there should be more emphasis on getting people into public transport, getting them on to buses, trains and trams.

In relation to taxis, I have a lot of sympathy for taxi drivers and owners. It is a very hard way to earn a small income. I have not come across many rich taxi drivers. I have come across a few philosophers and people who are highly educated driving taxis, but I have not yet come across many who are rich. In general our taxi service in South Australia is very good. It will always depend on the quality and presentation of the driver, but I rarely come across a taxi driver who is not positive or pleasant and we have come a long way from the days of people with sweaty armpits who are not suited to being in the taxi industry or in any public transport area.

I mention a hobbyhorse of mine which is marginal to this issue. Along our rail corridors for historical reasons we have a lot of olives that provide a seed source and spread feral olives right through the Adelaide Hills. On the one hand we have the government spending a lot of money and councils like Mitcham spending hundreds of thousands of dollars to get rid of feral olives through the foothills and the hills face zone, yet all along the corridor we have olives providing a wonderful seed source for birds to transport up into the hills. I make a plea again to the minister (and I am happy if trusted prisoners do the work), that over time we replace those olives with appropriate native species so that we do not keep spreading feral olives through the Adelaide Hills. It is pointless removing them in parts but sustaining olives along our rail corridors.

I commend the bill and urge members who do not use public transport to make sure they try it out. The government through this new body and other agencies should do all in its

power to encourage more people to use what is a good system, albeit disjointed, and let us all take public transport seriously and give it the usage and recognition it deserves.

Mrs REDMOND (Heysen): I support the bill, although I do so with some hesitation. I had my staff pull down off the internet a copy of the inquiry into the Passenger Transport Board, an inquiry set up under the previous minister for transport (Hon. Diana Laidlaw) in 2002, but the report of that board came down only in February of this year. When they set up the committee, the Statutory Authorities Review Committee received a request from the Legislative Council to inquire into the effectiveness and efficiency of the Passenger Transport Board under the Passenger Transport Act. The committee in the presiding members foreword said that it took the opportunity to conduct a broad inquiry into the Passenger Transport Board. It believed that the passenger transport system in South Australia was fundamentally sound and commended the PTB for its endeavours to both improve the services and increase patronage.

The committee set up did recommend that the Passenger Transport Board be removed from the part of its duties which involved the system for competitive tendering for bus services and suggested that it be handled by an independent agency. I was surprised, upon reading the recommendations of the committee, handed down in February this year, to find that far from recommending the abolition of the board, recommendation 1 says that the Passenger Transport Board continued the successful promotion of the state's passenger transport and integrated metro ticket system. Implicit in that is the continuation of the board itself.

Similarly, recommendation 2 talks about the Passenger Transport Board introducing regular public reporting of the service providers performance and so on. The concern I have in relation to this legislation is that recommendation 8 considered the possibility of the absorption of the Passenger Transport Board and that is what the current bill seeks to do. It says:

> If the Passenger Transport Board is to be absorbed into another government department, it should retain a unique identity and administrative independence from the department's other agencies.

It seems that the very essence of what is happening under the bill as promulgated is that that will not occur as it cannot possibly maintain a level of unique identity and administrative independence when it is part of the department. In recommendation 9 this committee wanted to ensure that, if a government department was to deal with the bus contracting and tendering previously done by the board, there should be a maintaining of the board's corporate knowledge in this area. I came to the bill somewhat surprised at its terms, given the terms of the recommendations made after quite a significant and extensive inquiry. The report itself numbers some 62 pages.

I then come more specifically to my comments on this bill. The Passenger Transport Board was established for several purposes and certainly the most important of those was the letting and administration of contracts for the supply of bus services in metropolitan Adelaide. I noticed also that in the contribution by the member for Light he pointed out that one of the fundamental reasons for having the board set up separately was to remove any possibility of conflict of interest. The government now seeks to abolish the board and says that it wants to do so for two main reasons: first, in relation to capital investment decisions. The government believes that part of the problem it has is that we have a somewhat run-down system and it needs to address that. I have no difficulty with that concept. It believes that it is at least partly due to having the responsibility for preparing and advancing investment projects fragmented between Transport SA, the Passenger Transport Board and TransAdelaide. I do not necessarily follow the logic of that.

The department's officer to whom I spoke about the proposal some months ago said they felt that planning for the future could be potentially thwarted by having an independent board that just goes its own way. Again, I do not necessarily think I follow the reasoning there. Nevertheless, they have this concern, so what they want to do under this bill is set up an individual agency, but they are going to create that within the Department of Transport and Urban Planning. I have some concerns about that, as I said, given the recommendation that it should be an independent and unique entity.

The second reason for seeking abolition of the board is, the government says, its responsiveness. The government believes that the separation of a new administrative unit within the department of public transport will enable them to develop a charter of responsiveness that will provide practical and measurable standards of responsiveness. So, the bill collapses the board's functions and, basically, places them into ministerial responsibility. It gives the minister, in effect, total political and practical responsibility for what is currently the board's functions and—in a good way—gives the minister direct accountability in parliament for all passenger transport issues. I am not sure, if I were the Minister for Transport, whether I would want to take on all passenger transport issues as a direct responsibility. Nevertheless, that is what will happen. The minister will be directly accountable for everything that happens in the department.

I do have a concern (and I think it was also mentioned by the member for Light in his comments on this matter) about whether, therefore, there can be the sort of arm's length impartiality that this bill is hoping to achieve, given that this minister, in particular, is the Minister for Transport as well as the Minister for Industrial Relations. It seems to me that, rather than removing the potential for conflict of interest, this is creating quite a potential for conflict of interest. However, far be it for me to suggest that I know more. It is, however, the first time that there has not been an independent committee or board separate from the minister. I will be interested to see how it operates.

Another thing that this bill seeks to do that is slightly different is set up a new committee to tackle disciplinary matters. Clause 22 sets out a comprehensive scheme for the exercise of disciplinary functions. It does not look to me as though it does anything very much except locate the same functions in a different place from where they are currently. But I guess that during the committee stage I will be able to clarify that matter. It seems to simply place the current disciplinary powers of the board into a new committee called the Standards Committee. If that is to have some different role or function to the way in which it operates within the board, again, I will be interested to see how that all turns out at the end of the day.

My main concern, as I said, is this issue of whether, by creating this new administrative unit within the department, it does not, in effect, create the potential—the very great potential, it seems to me—for a conflict of interest and, secondly, whether it does not fly directly in the face of the recommendations of this parliament this year relating to the inquiry into the Passenger Transport Board. I will be

interested to canvass those issues more fully with the minister during the committee stage.

Mr KOUTSANTONIS (West Torrens): Nothing makes me more proud than to rise in this place and support this piece of legislation. I have been waiting for this legislation since March 2002. I believe that the abolition of the Passenger Transport Board is one of the best things this minister has done and, indeed, so do our 1 000 or so taxi operators in this state. There will be rejoicing in the streets of Adelaide the moment this board is abolished: they will be celebrating for weeks on end. Can I just say humbly that I will not be making any victory speeches or celebrating the demise of the PTB but, of course, I will humbly and in a statesmanlike manner make my remarks in the most cooperative way that I can.

I congratulate opposition members for their support of the government. Their wisdom knows no end! I am always impressed when the member for Heysen speaks in this place—she is someone whose talent is obviously wasted. She makes some very good points, and she is one of the few members who makes me consider seriously the points that she makes.

Mr Snelling: She should be on this side of the house!

Mr KOUTSANTONIS: Probably. I thought that the minister was very kind, in his second reading speech, in his description of the PTB. In his usual manner, he was statesmanlike, sympathetic and compassionate. If I had been writing the second reading speech, it would have been a bit longer and a bit more detailed and graphic. The member for Heysen talked about clause 22 and said that she is not quite sure how this will change things. As a former taxi driver, and someone who has a great deal of time for taxi drivers, and is somewhat—

Mrs Redmond: Biased.

Mr KOUTSANTONIS: Not biased, but I tend to see a lot more taxi drivers than maybe any other member in the house. The standards board of the PTB, I think, has been somewhat less than helpful to some taxi drivers. I could give many examples (I will not go into the details now) where taxi drivers have been unfairly treated by the board. However, I will just say this. Taxi drivers want regulation in their industry. They do not want market forces to dictate how they operate. But quite often they also voluntarily regulate themselves.

Before the government legislated to make taxi drivers wear uniforms, they voluntarily started wearing uniforms. They started voluntarily making all their signs and advertising uniform. They started working with the government to implement uniform standards across the state to compete against independent hire car operators. I think that, often, the taxi industry leads the way ahead of the government and, indeed, the board—and often the board was left behind in relation to the standards of the taxi industry.

It is a good thing for there to be more political influence in the way in which our passenger transport policies are made. The current board (and this is no reflection on any member) often does not act in the best interests, in my opinion, of the industry that it is there to regulate. People who are in the industry often come to me and say, 'Look, I have been doing this for 30 years, and I just can't understand why these decisions are being made.' The decisions are often being made by people who have no real understanding of the coalface of the transport industry. That is not to say that they are not experts in their field, but often when you are out there at the coalface things are relatively different. I think the minister is doing—

Mrs Redmond: They become clear.

Mr KOUTSANTONIS: Yes, they become clear. The current board often gets left behind. I am always amazed that there are members opposite who yearn for regulation and for independent boards to run things. I really cannot get my head around the ideology when I hear members of the Opposition get up and talk about their fear of boards, or of boards being abolished, or of government shrinking somehow. I always find it quite interesting.

The last point I want to make about the taxi industry in general in South Australia is that every member of parliament would know about the complaints that we receive, as members of parliament, because of delays of the Access Cabs and the way in which the industry was treating its customers. The delays were causing stress and quite a lot of discomfort for the users of that industry. The people who are the most disadvantaged in our community were often left waiting for hours at shopping centres or when travelling to friends' houses for dinner. It could be quite embarrassing—especially in the case of the elderly who required Access Cabs to move them from their nursing homes to their family's house for lunch or dinner. Often they would be waiting three or four hours without a change of clothes because they did not expect to be away from the nursing home for long. Obviously problems as a result of that cause embarrassment and a great deal of stress to those people. We take transport for granted when we need to visit people. When someone relies on someone else to get around, it can become quite stressful, especially when it is hot, or if they are away from home, or if they are waiting for transport which takes two or three hours.

The PTB was very slow to act to the concerns of users of access cabs. It was very slow, indeed, to take on board their concerns. It was very slow to make any real changes. It seemed to me that the only solution the PTB had to access cabs was to release more plates. That was its only solution. They thought that the demand was so high, they would release another 15 taxi plates. But the waiting times went up, so they released more; the waiting times went up again and there was no customer satisfaction, so they released more taxi plates. It was not the solution. The solution was a more efficient management. Now it has gone to a taxi company which takes access cabs very seriously. They have put a lot of effort and resources into a contract from which they do not make a lot of money. They have put a large amount of time and resources into this industry for not much return. But companies, such as Independent Taxis, want to see the taxi industry have a good name in the community. They are interested in being good corporate citizens in the taxi industry and they do not like to hear people ringing talkback radio and criticising taxi drivers and the taxi industry. They do all they can to minimise complaints. They do that by listening to their customers and talking to their drivers—something the PTB should have done a long time ago.

I must say that the PTB has been very difficult when dealing with taxi drivers' complaints. The introduction of safety cameras into taxis was a complete farce. Taxi drivers were being fined massive amounts of money because they did not have cameras installed in their cars. Yet when they would go to get cameras installed, they were told there was a seven-month wait. They would place their order for the camera at the appropriate time, and the person selling the camera would say, 'Come back in six months.' Meanwhile they were

driving the cab on the road and a PTB inspector would pull them over and say, 'Where's your camera?' Rather than the PTB inspector accepting that they had paid a deposit when shown the deposit slip, they would issue a fine and say, 'Now deal with the PTB.' That kind of red tape on the owner of a small business makes it almost impossible for them to get about their work.

Taxi drivers do it tough. I know people complain night and day about taxi drivers, but members should imagine running a small business where if they exceed the speed limit in a 50 km/h zone—and there is no excuse for that—the fine in December will be over $100 plus three demerit points. If a person gets caught four times a week doing 55 km/h or 57 km/h, they will lose their licence and they will lose their business. The PTB inspectors were running around giving expiation notices because the camera had not been installed, through no fault of the taxi driver. The poor minister was getting letters weekly from me that stated, 'The owner-operator of the taxi had ordered and paid for his camera before the due date and the expiation notice was issued unfairly, even after your guidelines.' The minister would have to go to the PTB, explain the situation and get the PTB to waive the fine. The whole process was awful and the PTB could not see sense. They cannot see the trees for the forests.

Taxi drivers all over South Australia will be celebrating this bill's passing. It is one of the most popular pieces of legislation that this parliament will pass, and I commend the minister and the shadow minister for its speedy passage through the house. I am sure the shadow minister's colleagues in the upper house will do just the same. I am sure that taxi operators everywhere will congratulate the minister for the excellent job he is doing.

Mr HANNA (Mitchell): The Greens are passionate about public transport. I express appreciation that the PTB did get some things right over the past few years in terms of improving patronage, but on the whole, based on what I hear from my constituents, they were a disaster. It was a bureaucracy which did not deliver what people wanted. Many times I had difficulties obtaining just results in relation to complaints from my constituents about the PTB. The other thing about which the Greens are passionate is accountability. It is a very good move in my view to have the minister responsible for the provision of transport services and resolving complaints, such as the many I have had from my constituents about the activities of the Passenger Transport Board. I will not go into the details. This is simply a speech on the principle behind the bill. If the minister wants to abolish the PTB and have a direct chain of command with the people who are meant to be serving the public in relation to the provision of transport services, I say that is a good thing. With that comes the responsibility to resolve any complaints people have about the bureaucracy. I am in favour of the bill.

There is one particular aspect of the bill about which the opposition and the Greens are concerned. That is in respect to the tendering for contracts and the power which this bill confers upon the minister. The shadow minister for transport intends to move amendments relating to accountability. My amendments, should the committee get to deal with them, are in relation to the outsourcing of the management of transport services within metropolitan Adelaide. In my view, the outsourcing to private bus companies for the provision of transport services in metropolitan Adelaide was a mistake. The only reason that those companies have been able to make a profit is through a reduction in the wages and conditions of the workers—and that is something that should not have occurred. When it comes to the time to deal with that amendment, I will say a little more about it.

The Hon. M.J. WRIGHT (Minister for Transport): I thank all speakers for their contributions. It is time to be statesmanlike. The member for Light, the shadow minister, made a couple of significant points which I do want to address. I am sure he made these comments in good faith, and I will take those concerns on board to ensure that they are dealt with. He talked about the possibility of some risk in regard to complaints going into the bureaucracy. I think that is a fair point to make. Certainly, that is not the intent of this bill. That is something that has been discussed and it will be a priority, because that will not be tolerated once this bill becomes effective. We certainly do want complaints to be properly aired. I will give assurance for that. The other point made by the shadow minister was in relation to accreditation. I think he said that it needs to be monitored closely and the public must have confidence. I wholeheartedly agree, so I can give assurance that will be closely looked at.

The member for Fisher spoke strongly about his commitment to public transport and the importance of the standards committee, which is an important area. The member for Heysen spoke, in part, about fragmentation in investment. What we are on about, and have been on about for a long time, in regard to the abolition of the PTB is to have an integrated transport policy. If need be I can speak in more detail about that. The member for West Torrens, as always, made a statesmanlike speech.

Ms Ciccarello interjecting:

The Hon. M.J. WRIGHT: Yes, very much so. And the member for Mitchell made some strong points and highlighted the need for accountability—which, of course, is very important.

It is probably not necessary for me at this stage to talk about the amendments—we can do that when we get to that particular stage—but I will say that the government appreciates the support of the opposition. We see this as an important part of moving forward in the transport portfolio. It was a commitment that we gave in the lead-up to the last election. It has been some time in the making, not necessarily through the fault of anybody. It was introduced in the last session and, obviously, a lot of bills needed to be dealt with. So, we look forward to the speedy movement of this bill through both houses so that we can give effect to the commitment that was given to the people in the lead-up to the last election.

Bill read a second time.

The Hon. M.R. BUCKBY (Light): I move:

That standing orders be so far suspended as to enable me to move an instruction to the committee without notice.

The DEPUTY SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

The Hon. M.R. BUCKBY: I move:

That it be an instruction to the Committee of the Whole House on the Passenger Transport (Dissolution of the Passenger Transport Board) Amendment Bill that it have power to consider amendments relating to the awarding of contracts.

Motion carried.

The DEPUTY SPEAKER: The effect of this is to allow for an amendment by the member for Light and the member for Mitchell, which would otherwise be outside the scope of the bill, to be considered.

In committee.

Clauses 1 to 7 passed.

Clause 8.

Mrs REDMOND: I have a couple of questions of the minister. Clause 8 amends section 20 of the original act, which provides that the board has certain specified functions numbered (a) to (p). I have two questions. I note that the amendment deletes paragraphs (l), (m), (n), (o) and (p) and simply inserts new paragraphs (m) and (n). So, a number of powers of the board are being deleted and not replaced by powers of the minister. My first question is: will anyone exercise those powers? I note that some of them include things such as 'to initiate, carry out, support or promote projects and programs for the development and the improvement of passenger transport services'. So, the first question is: will those powers be somewhere else?

Also, I note that these various powers numbered (a) to (p) in section 20 of the original act are compulsory functions to be exercised by the board. That essentially sets out its compulsory charter. I am curious why, in transferring those powers to the minister, they are not compulsorily to be carried out and that he simply 'may' exercise those powers. May I have an answer to those two questions?

The Hon. M.J. WRIGHT: I thank the member for Heysen for her two questions. If I could just draw to her attention that 20(l) is not being deleted, and I think that is an important point and one that the member was probably realistically concerned about. If you then look at the other paragraphs (m), (n), (o) and (p), where it reads 'at the request of the minister' in (m); 'to report to the minister' in (n); and 'to provide advice to the minister to carry out other functions', it would be me requesting myself to do something. So, they really do not make sense with the changes that we are making. If we then go back to the member for Heysen's second question, where she refers to the 'compulsory' being changed to 'may', that is really just a drafting convention that has been suggested to us by parliamentary counsel.

Clause passed.

Clauses 9 to 25 passed.

Clause 26.

Mr HANNA: I move:

Page 11—Line 28—leave out 'The Minister' and substitute: Subject to this section, the Minister

I have a series of amendments which all go to the one purpose. That purpose is to prevent continuation of the outsourcing of management of passenger transport services as part of the general public transport system within metropolitan Adelaide. In other words, I say that the exercise undertaken by the Liberal government in outsourcing management of public transport services in Adelaide was a mistake. The only way in which private sector companies have been able to make a profit from the exercise is by taking away from the services and the wages of the drivers and other employees who were formerly with TransAdelaide.

Matters have come to a head only recently with the strike by bus drivers, and they had my full support in their struggle to achieve something closer to the wages and conditions they enjoyed prior to going across to the private sector. That privatisation exercise was a disaster for the drivers and their families. So, I say that it should not happen again—when those contracts have come to an end the provision of public transport services in metropolitan Adelaide should revert to the public sector. That will be the best means of not only providing services to the public but also taking care of that vital section of our workforce.

I am going to test the principle on this amendment, but I note at this stage that it is the second of the four amendments in my name which is the substantial amendment. Members might note that there is an out clause. I am not meaning to be unreasonable about it. If there was a resolution of both houses of parliament then it would be acceptable, according to these amendments, for there to be further outsourcing of public transport services in metropolitan Adelaide. In other words, if there was bipartisan support, or possibly support of numerous parties in the parliament, then it might be appropriate if good cause could be established. But, as I said, it has been a mistake for the reasons that I have mentioned, so that would have to be something exceptional.

Likewise, there is a reference there to the continuing operation of section 42. That is the section which says that if, under my scheme of things, TransAdelaide goes back to being the public transport provider in metropolitan Adelaide, and if it were to subcontract those services to private sector providers, it would need the minister's permission, and the minister would need to take service provision and other matters into account before that could be done. Of course, there would be political liability for that exercise. So, there is an out-clause, and that is important, so that the opposition—who are these days in some respects more like Labor used to be than Labor itself is—can be satisfied that there is a means for further privatisation but only if both houses of parliament agree to it.

The third amendment which I may or may not get to, depending on the outcome of the vote in respect of this amendment, relates to current contracts. I want to make it clear that the cessation of outsourcing arrangements would not affect the existing contracts. Finally, there is a minor consequential amendment.

I move this amendment for the reasons I have mentioned. I would expect to have the support of the Labor government. The Labor Party throughout its long history has consistently provided essential services and transport services to the public. That is not always possible in every part of the state but, in metropolitan Adelaide, the public transport services that we have had for decades have served the city well. I am particularly concerned, as I have said, for the workers involved—not only the drivers but others who used to be employed by TransAdelaide in respect of the public transport system—and it is going to be beneficial to both the public and those workers for this Labor Party policy to be implemented.

This is a test for the Labor Party today. I want to see what it is made of, and the people want to see what it is made of. Has it completely abandoned its commitment to public sector provision of these essential services, such as transport and the others, or is it now a party governed by economic rationalist principles, as Liberal as the Liberal Party has been throughout its history?

I often cannot see the difference, these days, between the Labor Party in 2003 and the Liberal Party in 2003. This is an opportunity to show the difference. This is an opportunity for the Labor government to show its metal, to show that it will implement Labor Party policy, and to turn the clock back on privatisation and outsourcing. It is up to Labor members to show their metal now with this amendment.

The Hon. M.R. BUCKBY: I do not support the amendment moved by the member for Mitchell—surprise, surprise! I believe that the policy that was undertaken by the previous Liberal government has delivered significant benefits to the state, to the tune of some $7 million a year. I note the comments that the member for Mitchell makes, though, in relation to the wages of the employees when they transferred from the public sector to work for the private sector. I would remind him, however, that significant severance payments were made to those workers, with many in the tens of thousands of dollars. That was accepted by those workers when they moved from the public to the private sector.

I do agree with him, however, that it is interesting to note that, prior to the 2002 election, the Labor Party, when in opposition, decried privatisation and contracting out of services. Yet it would appear that that is now different once the party is in government. So, I make the comment that I find it interesting to see that, on the one hand, in opposition it is the wrong thing to do but, on the other hand, it has now changed.

The Hon. M.J. WRIGHT: The government also opposes the amendment and, in doing so, I think a number of salient points need to be made. In the lead-up to the last election, the Labor Party's policy was crystal clear. It could be made no clearer than it was by the Leader of the Opposition, and that is that, if we were elected, there would be no new privatisations. We will be sticking like glue to that policy that was provided by our leader.

However, at the same time, the leader also made the point—for a range of reasons of which people on both sides of the house are aware—that we would not be able to unscramble the egg that had been made by the former government when it was in office. People are well aware that it is not a simple process to change what has been put in place. There is a range of areas—whether it be relating to the skill base of the work force, or to the infrastructure, or to the general expertise—where it just not a simple matter of flipping from one to the other once, of course, it is straight privatisation or, as it has been described in this case, as outsourcing.

So, we do not see this as a test at all. We made our position crystal clear. The Labor Party policy was there for all to see and, for that reason, we do not see this as a test. I am sure that the member for Mitchell feels very passionately about this, and it is reasonable for him to do so. I take up the point that was made by the member for Light. There is no inconsistency here, because we made a very firm commitment that, if we were successful at the last election, there would be no new privatisations—and nor have there been, nor will there be.

But the then leader of the opposition, now Premier Rann, made it crystal clear that we would not be in the process of unscrambling the egg; to do so would have obvious budget implications, even if it were possible when you need to take account of things such as the infrastructure involved; what you would need to repurchase to be able to do so; whether you had the skill base to be able to deliver; and what the impact of all those things would be on the budget. I make those points in opposition to this amendment.

Mr HANNA: The minister says that Labor's policy is for there to be no new privatisations. When the current contracts come to an end and the government is in a position to decide whether those services go private or public, if they decide to tender in the private sector, that is a new privatisation as far as I am concerned. It is a new privatisation as far as the public and Labor Party members are concerned. I am not going to argue with this hypocrisy any longer. Just ask yourselves what any minister in the 1970 state Labor government would have done.

Members interjecting:

The CHAIRMAN: Order!

The committee divided on the amendment:

AYES (3)

Hanna, K.(teller)	McFetridge, D.
Williams, M.R.	

NOES (38)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Caica, P.	Chapman, V. A.
Ciccarello, V.	Conlon, P. F.
Evans, I. F.	Foley, K. O.
Geraghty, R. K. t.)	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Hill, J. D.
Key, S. W.	Kotz, D. C.
Koutsantonis, T.	Lewis, I. P.
Lomax-Smith, J. D.	Matthew, W. A.
Maywald, K.A.	McEwen, R.J.
Meier, E. J.	O'Brien, M. F.
Rankine, J. M.	Rau, J. R.
Redmond, I. M.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Venning, I. H.	Weatherill, J. W.
White, P. L.	Wright, M. J. (teller)

Majority of 35 for the noes.

Amendment thus negatived.

The CHAIRMAN: Order! For the benefit of the committee and the member for Unley, the police officer apparently let him in when the doors were meant to be locked. By my judgment, this will not affect the outcome of the vote. He technically will not be counted. That is the advice given to me by the staff. The ruling of the chair is that the honourable member was not in the chamber for the division.

Mr BRINDAL (Unley): I seek leave to make a personal explanation.

Leave granted.

Mr BRINDAL: Earlier in the day, I missed a division in this house. I apologised to the house for that, as it was my fault. However—

Members interjecting:

The CHAIRMAN: Order! The member for Unley is entitled to be heard in silence.

Mr BRINDAL: —I believe I am entitled to exercise a vote. I would like the vote recommitted if it is necessary, because on this occasion I was in the building. I was sitting speaking to an *Advertiser* journalist, and it is impossible in their room—

Members interjecting:

Mr BRINDAL: Can I explain?—to be able to hear the bells. I can produce *The Advertiser* journalist if it is necessary. I think I was denied my right to vote. Also, I did not force my way in upstairs. The door was open, and I was in the presence of the committee, in clear sight of the committee, indicating where I wanted to vote. The door was not locked. I exercised my right to enter, as is my right, and I believe I should be entitled to exercise a vote. I further believe that this

house should make sure the bells are where people can hear them.

The CHAIRMAN: Order! There is an issue regarding whether you can hear the bells in certain parts of the building. My understanding from the staff is that the member for Unley entered the gallery after the order was given to lock the doors. I understand that a new police officer is on duty who was not familiar with the rule about locking the door. If the committee wishes to recommit the vote, that is in the hands of the committee.

The Hon. K.O. FOLEY: I rise on a point of order, Mr Chairman. The member for Unley's excuse was that he was in *The Advertiser* room, which is in the basement, yet he entered from the first floor. Honestly! If the member for Unley was serious, he would have been trying to get in on the ground floor and he would not have found his way all the way from the basement to the first floor.

Mr BRINDAL: If the Deputy Premier doubts my word, let him say so. However, the attendant at that door will verify that I tried to get in that door, and she obviously would not let me because it was—

Members interjecting:

Mr BRINDAL: Yes.

Members interjecting:

The CHAIRMAN: Order!

Mr BRINDAL: —locked. I tried that door, and I then went up—

Members interjecting:

The CHAIRMAN: Order! The committee is getting out of control.

Mr BRINDAL: Mr Chairman, I tried that door, which was locked. I also tried another door, which was locked, too. I went upstairs, and the door was not locked, and I was in the view of the committee.

The CHAIRMAN: The doors were locked, because that was the instruction—to lock the doors. As I pointed out, the new police officer was not aware of the rule of the parliament to lock the doors in the gallery. If the committee wants to recommit the vote, I wait for someone to move accordingly. Otherwise, I will rule that the member for Unley was not here for the vote.

Mr KOUTSANTONIS: I rise on a point of order, Mr Chairman. Standing order 172 provides:

> The doors are closed or locked as soon after the lapse of three minutes. . . No member may enter or leave the chamber until after the division.

That procedure was followed. When the division is counted, the standing order clearly provides 'anyone who is visible from the galleries'. At no time, sir, did you order the gallery doors to be locked. There is nothing in the standing orders which provides that the member cannot enter after the bells stop ringing. The member for Unley's vote should be counted. His constituents should be represented in the vote.

The CHAIRMAN: The member for West Torrens is incorrect. The order to lock the doors applies to all the doors, and that order was given. I am assured by the staff that the member for Unley entered the gallery after that order was given, and the new police officer did not know that he was to lock the door in the gallery. If the committee wants to recommit the vote, given that the vote was of that—

The Hon. D.C. KOTZ: I rise on a point of order, Mr Chairman. At a previous time in this house I also missed a division and the reason was that I, too, was in the corridor, between the access area to the Blue Room and the stairs at the other side of the hallway. Through that whole area, you cannot hear the bells ring. That is the pertinent point of any ruling that should be made for or against the member. I raised this point with the Speaker of the house, and the Speaker urged at one stage that all the areas within this building where the bells do not ring—and there are more than just one—should be looked at. I suggest that it is a relevant point.

The CHAIRMAN: Order! I am assured by the staff that the bells have been checked and are working in all areas of the building. I can only go on the advice I am given by staff. I have ruled that the member was not here for the division. I am in the hands of the committee. If the committee wants to move that the vote be recommitted, someone can do that.

The Hon. R.J. McEWEN: I rise on a point of order, Mr Chairman. We have established a precedent in this house that, if somebody comes and admits to the house that they have failed to hear the bells, we will recommit a vote. That has been a tradition in the five years I have been in here. I take the word of the member. The member says that he legitimately did not hear the bells. We must thus take the honourable member's word, so I move:

> That the amendments moved by Mr Hanna be recommitted to a vote.

Mr RAU: I understand that this would involve a suspension of standing orders in order to do this. Standing order 172, as was pointed out by the member for West Torrens, makes it very clear that 'no member may then enter or leave the chamber until after the division'. For these purposes the chamber includes the balcony. It is beyond question that he did enter that afterwards. It cannot be the chamber for the purposes of voting but not the chamber for the purpose of being present. It is either the chamber or it isn't. If it isn't the chamber he could not have voted and if it is the chamber then he is in breach of standing order 172 in entering after the closure of the bells.

The CHAIRMAN: Well, member for Enfield, it is part of the chamber for the purposes of voting. We are in somewhat of a grey area, but I would seek the indulgence of the house. It has been moved that the vote be recommitted, and I will put that.

Mr HANNA: Sir, can one speak to the motion of recommittal for the vote, or is it purely procedural? I think it is an unfortunate precedent that is being set.

The CHAIRMAN: I put the question that the vote be recommitted. Those is favour say 'aye', against 'no.' It is carried; it is not a suspension.

Mr HANNA: Divide!

The CHAIRMAN: A division is required. Ring the bells.

The bells having been rung:

The CHAIRMAN: Before bringing the division to a vote, one of the staff members has checked the bells in the *Advertiser* area, and apparently they are not working now. But we are now voting on whether to recommit the vote; so this is the procedural motion.

The committee divided on the motion:

AYES (40)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Brindal, M. K.
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Caica, P.
Chapman, V. A.	Ciccarello, V.
Conlon, P. F.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.

AYES (cont.)

Hill, J. D.	Key, S. W.
Kotz, D. C.	Koutsantonis, T.
Lomax-Smith, J. D.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J. (teller)
McFetridge, D.	Meier, E. J.
O'Brien, M. F.	Rankine, J. M.
Rau, J. R.	Redmond, I. M.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Venning, I. H.
Weatherill, J. W.	White, P. L.
Williams, M. R.	Wright, M. J.

NOES (2)

Hanna, K. (teller)	Lewis, I. P.

PAIR(S)

Majority of 38 for the ayes.

Motion thus carried.

Mr HANNA: Sir, I have a point of order. With the recommittal of the vote, does that mean that the previous division on the vote will be recorded, or not?

The CHAIRMAN: It would be recorded, because *Hansard* records transactions, but it would not be counted. Because of the procedural motion, the house will now have a division on the original matter, as that is the instruction of the house. This relates to the amendment moved by the member for Mitchell: clause 26, page 11, line 28. That is the amendment that I will put. The advice is that we have to go to a division, because that was the procedure that the house adopted. Ring the bells.

Mr MEIER: Sir, I rise on a point of order. I do not think anyone has left the chamber since the last division, so there is no need to ring the bells.

The CHAIRMAN: The issue relates to the number of members who voted last time. The number is likely to be different, because there was at least one member who said that he was absent. I think that, to clear it up and get it correct, we will ring the bells and do it properly. Ring the bells.

The house divided on the amendment:

AYES (4)

Hamilton-Smith, M. L. J.	Hanna, K. (teller)
McFetridge, D.	Williams, M. R.

NOES (38)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Brindal, M. K.
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Caica, P.
Chapman, V. A.	Ciccarello, V.
Conlon, P. F.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hill, J. D.
Key, S. W.	Kotz, D. C.
Koutsantonis, T.	Lewis, I. P.
Lomax-Smith, J. D.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	O'Brien, M. F.
Rankine, J. M.	Rau, J. R.
Redmond, I. M.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Venning, I. H.	Weatherill, J. W.
White, P. L.	Wright, M. J. (teller)

Majority of 34 for the noes.

Amendment thus negatived.

The Hon. P.F. CONLON (Minister for Infrastructure): I move:

That the time for moving the adjournment of the house be extended beyond 10 p.m.

Motion carried.

The CHAIRMAN: I take it that, following the defeat of that amendment by the member for Mitchell, his other amendments are not being proceeded with. But he is not here to respond.

The Hon. M.R. BUCKBY: I move:

Page 11, after line 29—Insert:

(2a) If the minister determines that a service contract should be awarded by tender—

(a) the minister must appoint a person or persons to conduct the process, including the assessment of any responses to the tender (although the minister may respond to any issue referred to the minister for his or her consideration or determination, and may select the successful tenderer (if any) at an appropriate time); and

(b) the minister must, within 14 days after the relevant invitation is published, forward to the Economic and Finance Committee of the Parliament a report which—

(i) sets out the specifications and terms of the tender; and

(ii) describes the processes that are to apply with respect to the assessment of any responses; and

(iii) provides information on the person or persons appointed under paragraph (a); and

(iv) contains such other information as the minister thinks fit,

(and the Economic and Finance Committee may then inquire into, and report on, the matter as the committee thinks fit); and

(c) if the minister gives a direction to any person during the assessment or selection process, then the minister must cause a statement of the fact of that direction—

(i) to be forwarded to the Economic and Finance Committee within 14 days after the direction is given; and

(ii) to be published in the annual report of the minister's department for the relevant financial year.

Page 12, after line 11—Insert:

(11) Section 39—after subsection (3d) insert:

(3e) If under a service contract awarded under this section the minister is, or is reasonably expected to be, liable to make payments equal to or exceeding $4 million (in total) over the term of the contract, the minister must, within 28 days after awarding the contract, forward to the Auditor-General—

(a) a copy of the contract; and

(b) a report which described the processes that applied with respect to the awarding of the contract.

(3f) The Auditor-General must, within the period of four months after the receipt of a service contract and report under subsection (3e)—

(a) examine the contract; and

(b) prepare a report on the probity of the processes leading up to the awarding of the contract.

(3g) Section 34 of the Public Finance and Audit Act 1987 applies with respect to the examination of a service contract, and the preparation of a report, under subsection (3f).

(3h) The Auditor-General must deliver copies of a report prepared under subsection (3f) to the President of the Legislative Council and the Speaker of the House of Assembly.

(3i) The President of the Legislative Council and the Speaker of the House of Assembly must, not later than the first sitting day after receiving a report under subsection (3h), lay copies of the report before their respective houses of parliament.

I think the amendment is self-explanatory. As I said in my second reading speech, I am concerned about a conflict of interest that may arise because the signing of contracts in relation to bus services, or any other tenders that were previously under the control of the Passenger Transport Board, now come under the control of the minister. The minister, with his responsibility as the minister for Trans-Adelaide and the minister signing off on these contracts, may have a potential conflict of interest. As a result of that, I have

moved these amendments, which call upon the minister to appoint a person or persons to conduct the process, including the assessment of any responses to the tender; and the minister must, within 14 days after the relevant invitation to tender is published, forward to the Economic and Finance Committee of the parliament a report which sets out the specifications of the tender, describes the processes which are to apply and provides information on the person or persons appointed by the minister to conduct the process. In addition, if the minister gives a direction to any person during an assessment or selection process, then the minister must cause a statement of the fact of that direction to be forwarded to the Economic and Finance Committee within 14 days and to be published in the annual report of the minister's department.

I believe this gives some protection to the parliament, and also to the minister where he is the signatory to the contracts. It is quite open and transparent in the fact that the Economic and Finance Committee can look at the specifications of the tender and assess the process that has been conducted to ensure that all has been above board. The amendment provides that, in relation to any tenders or contracts that are over $4 million in total, the Auditor-General must receive a copy of the contract; and also that he must report within a period of four months after receipt of a service contract on his examination of that contract and on the probity of the processes leading up to the awarding of the contract, and then deliver copies of that report to both the President of the Legislative Council and the Speaker of the House of Assembly. I believe that this should ensure that conflict of interest does not arise. While it enables openness to the parliament, it also protects the minister at the same time.

The Hon. M.J. WRIGHT: The government is prepared to support the amendments that have been moved by the opposition. Anything that protects the minister is a good thing, so why would the government not support this? We think that the procurement process that has been established is at arm's length, quite deliberately so, but we do not have any difficulty with the amendments moved by the opposition. They put that additional layer into it. We do not think it adds anything, but we also do not think it detracts from the quality of the bill. In true bipartisan spirit, we are more than happy to support the amendments moved by the opposition.

Amendment carried; clause as amended passed.

Remaining clauses (27 to 51), schedule and title passed.

Bill read a third time and passed.

DRIED FRUITS REPEAL BILL

Adjourned debate on second reading.

(Continued from 23 September. Page 214.)

Mr VENNING (Schubert): I rise to lead the debate on behalf of the opposition and to say that we will support the passage of this bill. The Dried Fruits Act has been pivotal to the organisation of production and marketing of dried fruit in South Australia for over 70 years. The industry has been a key part of South Australia's rural production since first settlement. Dried fruit production was a vital and thriving industry along the banks of the River Murray and throughout the Barossa Valley—which I am lucky to represent—but nowadays it has waned somewhat.

The dried fruit industry forms part of South Australian culture and, if members pause to think, what would South Australia be without Angas Park Fruits or Menz Fruchocs? Angas Park Fruits at Angaston is one of the Barossa Valley's major tourist attractions, and one only needs to drive past there at any time to see buses and people there. It is extremely popular. It is a very good product and, if people are looking for gifts, I recommend the products. They are not only attractive but also good for you.

The Hon. M.R. Buckby interjecting:

Mr VENNING: As the member for Light reminds me, they are very tasty. Many of us have tales of our growing up, cutting and picking apricots during summer holidays, earning pocket money and saving up for something special or to pay for university. Whether from the Riverland or spending time on the river, it is a memory many people, including members, share. Unfortunately, the industry has declined due the advancement in fresh fruit production and refrigeration, as well as cheap imports in relation to dried tree fruit products, particularly apricots. The dramatic increase in the wine industry has also meant that many producers have shifted away from the dried vine fruit industry into wine grape production. However, it still remains a very important industry in South Australia. South Australian horticulturalists produce around 2 100 tonnes of dried fruit a year, the vast majority of which is dried apricots.

The review of the Dried Fruits Act was forced upon the industry and government so as to comply with the national competition policy—another victim. After systematic consultation with growers, packers and major dried fruit users, as well as the South Australian Dried Fruit Board, and a final review in November 2002, the outcome has been positive, with a thorough solution being developed for dried fruit in South Australia. This should be used as a guide for future national competition inquiries.

Alternative methods of delivering the functions that were provided under the act were needed to be found, and seem to have been achieved. In fact, this review has meant that hopefully many facets of the industry could actually be improved. The following key functions were identified by the industry as necessary before the Dried Fruits Act and its regulations were repealed:

- Food safety legislation for packers and their premises;
- An approved supplier program for delivery by growers of quality assured product to packing sheds;
- A code of practice, documented and agreed, and training delivered to the industry;
- Securing a funding mechanism for the South Australian Dried Tree Fruits Association;
- Dried fruits research and development secured through links with Horticulture Australia; and
- Other industry development, information and support functions be developed and delivered by the South Australian Dried Tree Fruits Association.

Industry requests to put these alternative functions in place have been completed and progress has been made. The minister will transfer the $70 000 to $75 000 of unexpended levies to the South Australian Dried Tree Fruits Association.

To ensure that the residual funds provided to the South Australian Dried Tree Fruits Association are used for industry development, an agreement has been developed between the South Australian Dried Tree Fruits Association and the Minister. This agreement, I am told, requires:

- A strategic plan indicating key activity areas in which the South Australian Dried Tree Fruits Association will be using its funding in the three years to 30 June 2006; and
- Annual reports from the South Australian Dried Tree Fruits Association for the years 2003-04 to 2005-06 inclusively, indicating key industry development activities

and expenditure, and any conditions specified by the minister requiring the association to implement the strategic plan.

The funding going to the Dried Tree Fruits Association therefore should be well spent and well accounted for.

The Dried Tree Fruits Association is the main organisation servicing the industry in South Australia and will take up the majority of those tasks outlined. Those who dry vine fruits such as sultanas and currants have not been left out in the cold, as the association's name suggests. A close working relationship exists in the industry with the Vine Dried Fruits Association based in Mildura. This will mean that the industry should now enjoy far better institutional support across the board.

In conclusion, I and the opposition support the passage of the Dried Fruits Repeal Bill.

Ms Breuer: Well said by one old prune!

The Hon. R.B. SUCH (Fisher): I think that was a very unkind remark by the member for Giles referring to the member for Schubert as an 'old prune'. If anything, he is a young prune.

I would like to make some brief comments. I realise that this is an important measure in terms of complying with the national competition policy, and I guess we will see more of these bills come before the parliament, and one that will be very tricky down the track will relate to the taxi industry. But we are committed to national competition policies, for better or worse, and this is a consequence of that commitment which was entered into through COAG several years ago. The way of the world, supposedly, is greater competition.

I would like to mention briefly the important role played by people in Australia, and particularly South Australia, who produce dried fruits. We tend to take these things for granted, and I confess I am a great lover of dried fruit. At Tasting Australia I was pleased that in the major events tent they were supplying dried muscatels, which is a beautiful product. South Australia produces some fantastic dried apricots. Why people purchase some of the imports, I do not know. I guess it is simply in relation to price.

I challenge anyone to show me a dried apricot from Turkey as being of equivalent quality to a locally produced dried apricot. As I said, I am a fan of dried fruit, but I would like to see manufacturers be a little more generous in their inclusion of dried fruit in some products. I think that some take the view, 'Let's put in as little as we can.' I know that you can get totally fruitless finger buns, but in those buns that are supposed to have fruit in them it is almost like looking for the missing link there are so few pieces of dried fruit. Likewise at Easter time. I appreciate that some manufacturers, including a well-known one in Adelaide, makes fruitless Easter buns, but the traditional buns have fruit in them. However, it seems that, over time, there is a tendency to reduce the amount of dried fruit in something even as important as Easter buns.

Members interjecting:

The Hon. R.B. SUCH: Well, I do not spend my days counting the amount of fruit in these things otherwise I might qualify for the title of 'fruit cake'. As I say, we tend to take these things for granted. People produce this quality fruit. The member for Schubert mentioned one of the local packers and distributors, and there are others in South Australia. We should not take these products for granted. The quality of them is outstanding, and I would urge South Australians to support their own produce as much as possible. I noticed on a recent visit that the supermarkets in Western Australia strongly promote Western Australian produced products.

They have arrows and all sorts of things in the supermarket highlighting products that are produced in Western Australia. As I say, it is one of those bills that goes through this place which will never get a headline but which, nevertheless, is important in terms of its economic impact. As I have said previously, I believe that we should all recognise the contributions of those growers and producers who produce such wonderful produce here in South Australia.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I thank members of the opposition who put considerable time into this repeal bill which has been in train for many months and which has been widely consulted through the industry in South Australia in terms of both the producers, the packers and, of course, the QA system process, which is required by the supermarket customers and large chain sellers. This bill will have several impacts. Of course, it was originally worked upon in order to comply with the National Competition Policy and, in examining the act, it became clear that the act in its current form acted as a way of kerbing innovation and new product development.

It appears that the dried fruit industry now has moved somewhat from the old days when there were simple fruits and bags of fruit mix for cake making. Now there is a range of innovative products which are less of the dried fruit in a bag variety and more of the fancy goods, survival kits and packaged fruits for a more trendy supply chain. The old system of having quality products standardised and specified in terms of size, colour, quality grades, moisture content and package requirements are now less applicable because they are not the form in which products are now delivered. Therefore the old system of compliance no longer is effective and serves the industry in the way it did in the past.

The issues that have been raised and debated extensively relate to the dried vine fruits, and we have heard from the member for Schubert that this area of production is well taken care of by the Australian Dried Fruits Association located at Mildura. The remaining levies will be distributed over the next months, and the amount left within the care of the minister currently is between $70 000 and $75 000. Those sums, after winding up, will be distributed throughout the industry to the people who have contributed those sums of money.

We will request the annual reports to 2005-06. This bill, which I commend to the house, is supported by the industry. It has been debated extensively in another place, and I think it is supported fully by all those involved. I commend the bill to the chamber.

Bill read a second time and taken through its remaining stages.

URANIUM MINING

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I lay on the table a copy of a ministerial statement made by the Hon. Paul Holloway in another place relating to uranium mining activity.

ADJOURNMENT

At 10.22 p.m. the house adjourned until Thursday 16 October at 10.30 a.m.