HOUSE OF ASSEMBLY

Wednesday 22 October 2003

The DEPUTY SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

Promotion and Grievance Appeals Tribunal—Report of the Presiding Office—Report 2002–03

By the Attorney-General (Hon. M.J. Atkinson)—

Claims Against the Legal Practitioners Guarantee Fund

By the Minister for Environment and Conservation (Hon. J.D. Hill)—

Arid Areas Catchment Water Management Board—Report 2002–2003

South Australian/Victorian Border Groundwaters Agreement Review Committee—Report 2002–03.

STATE ECONOMY

The Hon. K.O. FOLEY (Treasurer): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.O. FOLEY: I rise to inform the house that I have today publicly released a paper produced by the international credit ratings agency Standard and Poor's. The paper is entitled 'South Australia AA+ Rating: a Comparative Study of Financial and Economic Performance'. Do not let the title overly excite you, but it is a good read. As part of its rating service to the South Australian government, it has produced this independent assessment which not only looks at how we are performing but also compares this state with other places around the world.

As members may recall, Standard and Poor's recently affirmed the state's credit rating at AA+ and revised the outlook from stable to positive. As part of an effort to increase confidence and investment in our state, I have distributed this report to many people locally, nationally and internationally. I have sent it to all members of this parliament, our major business leaders, journalists, both local and interstate, community leaders, interest groups, the government's international trade offices, and numerous other important and influential contacts throughout the world.

The document is extremely positive towards South Australia and is confident about its future. The brochure notes:

South Australia's rating is supported by:

- An extremely strong balance sheet;
- Improving finances;
- A demonstrated commitment to fiscal discipline; and
- A growing economy.

This is proof positive of this government's hard work over the last two budgets to repair the state's finances. Standard and Poor's recognises, and I quote—

Mr BRINDAL: I rise on a point of order, Mr Deputy Speaker. The Deputy Premier was given leave to make a ministerial statement; he was not given leave to debate a subject which is properly the matter for debate.

The DEPUTY SPEAKER: The minister has leave to make a ministerial statement. There is some latitude within that, but he should not enter into explicit debate.

Members interjecting:

The Hon. K.O. FOLEY: Poor old Mark. What do you call him? The sook from Cook? Standard and Poor's recognises that we have an extremely strong balance sheet and low levels of debt. Further—

Members interjecting:

The DEPUTY SPEAKER: Order! The members for Bright and Mawson will be taking a break shortly.

The Hon. K.O. FOLEY: Further:

Standard and Poor's believes that the government is likely to achieve its target of on average, balanced budgets in the general government sector.

Standard and Poor's acknowledges that:

South Australia's recent economic growth performance has been robust. Economic growth in South Australia has been stronger than in the industrialised countries' average and compares favourably with some high growth international peers such as the United Kingdom, Germany, the United States and Eurozone.

Standard and Poor's notes:

South Australia records the lowest number of industrial disputes, the lowest cost manufacturing industry base, and the lowest cost finance and insurance industry base. South Australia also records the equal lowest general direct labour costs and the second lowest labour turnover, mining industry cost base, tourism related industry cost base and property and business services industry cost base.

Standard and Poor's—

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Bright has been cautioned once. He will not be cautioned anymore. The member for Mackillop will also listen.

The Hon. K.O. FOLEY: Thank you for your protection, sir. Standard and Poor's acknowledges the benefits from the establishment of the Economic Development Board. The paper states:

Standard and Poor's considers positively the board's strategy of moving beyond traditional development methods of the provision of government hand-outs and tax holidays which tend to only have short-term benefits. If successful, the overall strategy will provide a sustained and noticeable improvement to South Australia's growth potential.

The government believes that the state's finances are heading in the right direction. However, we acknowledge that there is still work to do. Notwithstanding the report's recognition of the debt reduction by the former government—I am happy to acknowledge that—it makes it clear that the job was far from done. The report notes this government's efforts to 'address some of the structural imbalances in the state's ongoing financial performance through more sustainable government revenue and spending policies.' In other words, this government has made the hard decisions to bring spending under control and achieve balanced budgets. So, again, if members opposite want this state to achieve continued economic growth—

The Hon. DEAN BROWN: I rise on a point of order. The minister is now clearly debating, and I can see that because I have a copy of what he is saying. The current paragraph and the next paragraph are no more than debate and therefore clearly in breach of standing orders.

The DEPUTY SPEAKER: Order! The chair cannot make a judgment unless the chair has heard it.

The Hon. DEAN BROWN: I rise on a point of order, Mr Deputy Speaker.

The DEPUTY SPEAKER: Order! The chair has the call at the moment. The Deputy Premier should avoid entering into debate. This is a ministerial statement.

The Hon. DEAN BROWN: The member has already said enough, saying, 'So, again, if members opposite want', and that is clearly leading into debate.

The DEPUTY SPEAKER: I have made the point that the Deputy Premier should not enter into debate, but the chair must hear something. The chair has special powers but they do not extend to that level. The Deputy Premier.

The Hon. K.O. FOLEY: I wonder whether a point of order can be taken when I have not said anything that it refers to. I will continue my statement because what matters is what I say, not what one is reading. So, again, if members want this state to achieve continued economic growth and a AAA credit rating, we as a government must resist irresponsible demands for unsustainable spending.

Members interjecting:

The Hon. K.O. FOLEY: I am not sure what copy you have got. As a government, we intend to maintain strong fiscal discipline and deliver to this state a secure financial future, unlike the irresponsible members opposite.

Mr Brokenshire: You lost the AAA rating with the State Bank.

The DEPUTY SPEAKER: Order! The member for Mawson is out of order. The Deputy Premier was deliberately inflaming the opposition by his statement at the end, and debate.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the fifth report of the committee.

Report received and read.

Mr HANNA: I bring up the sixth report of the committee.

Report received.

QUESTION TIME

MENTAL HEALTH FACILITIES

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Minister for Social Justice. What action will the minister take in response to the report of the Public Advocate, Mr John Harley, who states in his annual report that it should be an urgent priority of the government to ensure that appropriate health care services and detention facilities are provided for mentally impaired people in the state's correctional system? In his annual report tabled in the house yesterday, Mr Harley says there are insufficient beds for people with mental impairment in the state's correctional system. He also says that this has developed to the stage where people who have been found not guilty of crimes because of their mental impairment have been held in prison because there is no room for them in the purpose-built forensic mental health facility known as James Nash House. Mr Harley says that, by permitting this situation to continue, the government is breaching a number of conventions, including the Universal Declaration of Human Rights.

The Hon. L. STEVENS (Minister for Health): I thank the leader for the question because this is a very serious matter. These are very serious issues which have a long history, certainly predating this government. The deficits in the James Nash House services that have been identified by the Public Advocate have been documented previously in numerous reports and reviews made to the previous minister dating back at least to 1999.

The newly appointed Director of Mental Health, Dr Jonathan Phillips, has identified reform of forensic mental health services as a key priority. On Monday—

An honourable member interjecting:

The Hon. L. STEVENS: Just listen. On Monday this week, Dr Phillips inspected James Nash House with Dr David Chaplow, the Director of Mental Health in New Zealand. Dr Chaplow is recognised as a world expert in the delivery of forensic mental health services. Dr Chaplow will assist Dr Phillips in reforming James Nash House and the forensic mental health system.

What is needed is a comprehensive approach and not just a bandaid solution. The reform of forensic services will occur through systemic whole-of-government action that allows for the development of alternative supervised care options which better manage the factors of mental illness but which also meet the concerns around safety and security. The mental health services unit in the Department of Human Services will seek to involve the Public Advocate as a key partner in the reform of the forensic mental health system.

UNEMPLOYMENT

Ms RANKINE (Wright): My question is to the Minister for Employment, Training and Further Education. What is the government doing to assist unemployed people in the northern suburbs to become job ready? The high level of unemployment amongst young people in the northern suburbs continues to be of concern for many people in my electorate. While other jobs are being created in the north, we need to ensure that local young people are given the opportunity to benefit from this growth.

The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education): I thank the member for Wright for her question. She is certainly passionate about finding opportunities for young people to gain employment and careers in her region and has worked tirelessly in the local high schools, as well as with local industry and communities, to find ways of linking those people who are currently disconnected from future careers.

It is particularly important in the northern suburbs, because in the honourable member's area there has been substantial growth in both the car industry and manufacturing sectors, yet there are people in the area, particularly young people, who are unable to take up those jobs because they do not have the capacity to become apprentices and directly enter the work force. My department has recognised this unconscionable disconnect and has recently funded the Service to Youth Council to provide pre-vocational training to allow young people to take up the opportunities that are currently available.

The specific industries that require young people to take up apprenticeships and traineeships in the honourable member's area include welding, general engineering, electronics, stores and warehousing and plastics, and this is particularly true for those people in the cities of Playford, Salisbury and the town of Gawler. The courses we are currently engaged in supporting range between four and seven weeks, and give basic skills, employability and nationally recognised qualifications (some to certificate 2) in areas such as first aid. Since mid August, 26 young people have gained employment (having graduated from these programs), with a further participant returning to continue in their secondary education to regain further skills for employment.

The number of employment outcomes is expected to continue until later in the year. This project, I think, is a very fine one, which I know the member for Wright would endorse, because it gives flesh to the government's concerted efforts to work collaboratively with local government, industry and communities to give young people an opportunity to fulfil their potential.

DISTINGUISHED VISITORS

The DEPUTY SPEAKER: Before calling the next question, the chair acknowledges and welcomes the delegation from the New South Wales parliament: the Hon. Ian MacDonald MLC, Minister for Resources and Fisheries; the Hon. Christin Robertson MLC; and, the Hon. Tony Catanzariti MLC.

UNEMPLOYMENT

Ms CHAPMAN (Bragg): As a supplementary question, where are the 26 students undertaking the courses?

Members interjecting:

The DEPUTY SPEAKER: Order! It is a variation on a theme, but the honourable member has asked the question so, if she wishes, the minister can respond.

The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education): I apologise, I may not have made my reply entirely clear. The 26 students are now employed. If the honourable member would like the names and addresses of their employers, I am very happy to provide them.

Members interjecting:

The DEPUTY SPEAKER: Order! It is obvious that members are looking forward to estimates committees with some interest which, no doubt, prompted the supplementary.

MENTAL HEALTH FACILITIES

The Hon. R.G. KERIN (Leader of the Opposition): My question is, again, to the Minister for Social Justice. What immediate action will the minister take to address the lack of facilities in the program for people with mental disorders as identified by the Public Advocate, Mr John Harley, in his latest annual report? In his latest annual report, Mr Harley outlined several matters that he says he has previously identified to government. Mr Harley has identified the following areas: the lack of appropriate facilities for adolescents and young adults (particularly women) with mental disorders; the lack of facilities and programs for brain-injured people, particularly those who are violent and those who are young; the lack of community-based facilities for people with mental illness; and, the lack of programs in residential and respite care for intellectually disabled people.

The Hon. L. STEVENS (Minister for Health): I am aware of remarks and reports that the Public Advocate has produced in these areas over a number of years. I have said on many occasions in this house that this government has a major task to clean up the mess left to it in relation to the mental health system in this state.

Members interjecting:

The Hon. L. STEVENS: No, no, no.

Mr Brokenshire: For two years you have done nothing.

The Hon. L. STEVENS: No.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, the member for Mawson!

The Hon. L. STEVENS: Let me just refresh members' memories. The member for Mawson's comment that the government has done nothing is completely wrong.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order! The chair will do something in a minute and it will be for the member for Mawson to remove himself.

Mr BRINDAL: I rise on a point of order, sir. It is an understanding in this place that the chair will act with impartiality. The remarks of the government, when the Deputy Premier talks about the 'sook from Cook' and things like that, have been inflammatory. You have cautioned my colleague the member for Bright several times, and the member for Mawson, but you do not seem to hear the inflammatory comments coming from the other side.

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Unley has to do that by substantive motion.

Ms Rankine interjecting:

The DEPUTY SPEAKER: The member for Wright is out of order. Ministers and others should refrain from inflammatory and derogatory comments that do nothing for the standing of the Parliament. The Minister for Health.

The Hon. L. STEVENS: As I was saying, the government has a very significant task in the mental health reform process. I just want to remind people that it was the previous government's own report in the year 2000—

The Hon. R.G. KERIN: I rise on a point of order. This is an issue of relevance. Both the Speaker and the Deputy Speaker this morning on radio were talking about the fact that we are not getting answers to questions in this place. The question here was not about the history of this problem: it was about—

The DEPUTY SPEAKER: Order! I think the Leader of the Opposition has made his point, and I uphold the point of order. The minister is straying into historical rhetoric, so the minister should come back and answer the question.

An honourable member interjecting:

The Hon. L. STEVENS: Not hysterical. On coming to office, the government put new money into the budget for mental health. In our first budget, the government put in more money than the opposition ever put in. We put in $9 million in our first budget and, in this most recent budget, another $4 million has gone in. As well as that, the new Director of Mental Health Services, Dr Jonathan Phillips, who began his work with us on 18 August, has hit the ground running and is working to improve services. But, make no mistake about it: there is a big job to do here in South Australia. It is a big job that we are doing and that we will continue to do for as long as it takes.

FUEL, ALTERNATIVE

Mr KOUTSANTONIS (West Torrens): Will the Minister for Transport advise how the government is promoting vehicles fuelled by alternative energy sources in its public transport fleet?

The Hon. M.J. WRIGHT (Minister for Transport): I thank the member for his question. I think all members appreciate the member for West Torrens' passion for biodiesel fuel. On Sunday 19 October, a government public transport bus, running on biodiesel, started in the green fleet class of the 2003 World Solar Challenge. The bus will test

biodiesel performance in an extreme range of conditions as it travels from Darwin to Adelaide. The bus is running on 20 per cent biodiesel.

Biodiesel is an environmentally friendly alternative to petroleum diesel, and is produced from used cooking oil, abattoir waste and from plants grown in South Australia. There is significant interest from the private sector to set up a biodiesel industry in South Australia, which means jobs and investment for this state. The government is committed to trialing biodiesel for use in the Adelaide metro bus fleet, to complement the existing fleet of compressed natural gas buses. Biodiesel is produced from renewable resources, or waste products, and therefore has significantly lower greenhouse gas emissions and a lesser impact on global climate change. I know that all members are keen to pursue its progress. Daily reports are available on the website www.transport.sa. gov.au.

DISABLED PERSONS' ACCOMMODATION

Mr SCALZI (Hartley): Will the Minister for Social Justice advise whether she is aware that parents of adult disabled persons waiting for permanent accommodation for their children have been forced to abandon their children, in order to have them deemed homeless and placed in permanent accommodation? One of my constituents has been unable to access urgent or critical supported accommodation for her daughter and was recently forced to resort to refusing to collect her from respite so that her problem could be addressed. Her daughter has now been classed as homeless and placed in temporary accommodation. Her mother hopes that this will lead to her soon being placed in permanent accommodation at Minda Home.

The Hon. S.W. KEY (Minister for Social Justice): I thank the member for Hartley for his question. I am very concerned to hear the report that he has just given me. Unfortunately, the member for Hartley has not, as far as I know, raised this issue with me before, so I am unable to give him an answer on the spot. I am very happy to follow the tradition that we have had in this place that the previous deputy leader exhibited when he was the minister, and was asked questions of a particular sort, saying that he would confirm the details and would take up those issues. So, following the tradition that I understand the previous minister would always demonstrate in this house, I will do the same.

But the member for Hartley also raised a very important question about the problem that we have with regard to many of the carers in our community getting to the stage where they are not able—after, sometimes, many decades of service to their dependants—to cope with that responsibility. This is an issue that I am trying to address at the moment. We have a waiting list and we are also, in looking at the different regions, trying to make sure that those in most urgent need are being dealt with. But, as has already been identified, there is a problem that is bigger than the resources that we have at the moment.

The other thing I would say, too, is that, in the negotiations that we have had more recently on the Commonwealth State and Territory Disability Agreement, this government has demonstrated its commitment to the area by increasing the financial commitment as well as the organisational commitment that is needed.

GENERATIONAL HEALTH REVIEW

Ms BEDFORD (Florey): My question is to the Minister for Health. What action is being taken to implement changes to governance of health units as recommended by the Generational Health Review?

The Hon. L. STEVENS (Minister for Health): I thank the member for Florey for her question. The Generational Health Review found that there is a critical need to develop as a system, rather than as continuous separate health units, and that recommendation was accepted by the government. The review found that governance must change in order to achieve reform. On 19 June this year, the Acting Premier and I jointly released the government's response to the review and the initial set of announcements of the government's position.

The first decision was to establish a regional health structure in the metropolitan area. The aim of that move was to strengthen accountability, to improve services and to build the capacity for health services to work as an integrated system of care. There is also a clear recognition by the government that the delivery of health care and the development of strategies in country South Australia require a different approach from that in the city. Local country boards have a capacity to play a vital role in responding to their community and in shaping practical solutions to local health issues. Existing regional structures in the country will be supported, and there will be further work with all country health units on collaborative reform.

A paper entitled 'New Governance' has been released and placed on the web to provide guidance to the government's intentions with respect to new governance arrangements for our health units. In addition, task groups have been established to work on the establishment of two new regional health authorities for Adelaide, and a new population-based organisation developed from the Women's and Children's Hospital and Child and Youth Health. The task groups are aiming to deliver draft constitutions by the end of this month.

A solid commitment is given that there will be no forced removal of local boards in country South Australia, and the process of cooperative reform will be advanced through a country health summit to be held this Friday, 24 October 2003. This summit is jointly being sponsored by the chairs of regional country health services and me. I have to say that there is much work to be done, but I will certainly keep the house informed.

The Hon. Dean Brown interjecting:

The DEPUTY SPEAKER: I do not know whether the Deputy Leader wants that counted as a question, but his several interjections are out of order.

MENTAL HEALTH FACILITIES

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is to the Minister for Social Justice. Will the minister introduce legislation to address concerns raised by the Public Advocate in his latest annual report? In his report the Public Advocate, Mr Harley, states that people with disability are 'the most disadvantaged group within our community'. He adds that there should be 'a stronger legal framework to enable them to protect their

human rights'. Mr Harley concludes by saying, 'Such a framework does not exist at the moment.'

Members interjecting:

The DEPUTY SPEAKER: Order! The members for Wright and West Torrens are out of order.

The Hon. S.W. KEY (Minister for Social Justice): I answer this question in two ways. The general question that the deputy leader raises through the report is the issue of rights. We are looking at this matter in two ways. We are looking at the Equal Opportunity Act, and a discussion paper is also being developed to look at a lot of areas to do with the Equal Opportunity Act. The disability groups in our community are very keen to participate in that debate and discussion about whether we need amendments.

Secondly, the Disability Services Office has recently circulated for comment a document which looks at a framework for the disability area. As the honourable member would know, having been the disability minister for a while, there are a number of areas where we need to clarify the service mix and support for people with disabilities.

There tends to be a view that different disabilities need to be in different areas, for example, people with acquired brain injury have a different set of groups and services to which they relate as opposed to people with intellectual disability or people who have been born with a brain injury. One of the things we have been working through in the past few months is how we can ensure that we streamline services so that we do provide the services and also address the issues that the member for Hartley raised recently about the number of adults on waiting lists who need alternative accommodation.

My interpretation of the issue of rights is not only the things that we normally associate with rights, such as human rights, United Nations declarations and other important legislative framework, but also the delivery of services in an equal and accessible way.

In answer to the second part of the question, we are looking at legislation and, within the framework that has been distributed recently, a way of ensuring that people have rights and access to services in a fair way.

The DEPUTY SPEAKER: Order! Before calling the next question, I remind ministers that they need to keep answers tight.

INFORMATION TECHNOLOGY

Ms THOMPSON (Reynell): My question is directed to the Minister for Education and Children's Services. How is the government working to ensure that our teachers are equipped with the necessary skills to make the best use of technology?

Mr Brindal interjecting:

The Hon. P.L. WHITE (Minister for Education and Children's Services): Despite the assertions of the member for Unley—and I think he was a teacher once, a long time ago—

Members interjecting:

The Hon. P.L. WHITE: I do not know whether he was any good at it; I assume he was.

Mr Brindal interjecting:

The Hon. P.L. WHITE: I would be glad to ask the—

The DEPUTY SPEAKER: Order! He might have been a teacher, but he may not have been a good pupil. The member for Unley will listen. The minister has the call and she should not provoke the member for Unley.

The Hon. P.L. WHITE: I am sorry, sir, but it is very tempting. Information and communication technology is an essential part of today's society, and the fact that it is being used increasingly across our curricula demonstrates that. This year the state government—

The Hon. M.R. Buckby interjecting:

The Hon. P.L. WHITE: You introduced technology! There have been computers for a long time, member for Light.

The DEPUTY SPEAKER: Order! The minister will answer the question. The opposition needs little provoking. It is obvious that the minister should answer the question and then sit down.

The Hon. P.L. WHITE: Sir, I am pleased that so many members are interested in education. That is really positive. This year the state government is providing $3.4 million in new computer subsidies for schools to buy computers, as well as an extra $2 million for administration of computers. Therefore, it is important that our teachers have the necessary skills to utilise that equipment to best impact. Teachers are central to maximising the impact of information and communication technology on student learning and on accountability, and the government has committed an additional $1 million per year over the next four years for extra teacher professional development in information and communication technology to ensure that our teachers meet the demands of an increasingly complex modern classroom environment.

Earlier this year, the government appointed 30 ICT coaches across the state to deliver information and communication technology training to teachers. Their role has been, and is, to assist schools with developing ICT improvement plans, to better manage the skills of their staff in this area and to deliver training in a very hands-on way. The coaches have been provided with intensive training to provide a new course for groups of teachers called Learning with the Internet, and by June next year over 2 100 teachers will have accessed that course with those coaches. The government is also providing information and communications technology planning for our schools' leaders, and two school principals per district will now be trained as mentors for other principals in their district to assist with the development of the plans that must be produced for every single public school.

Through my department's Technology School of the Future, information and communication technology programs will be developed for country areas, and those programs will be individually tailored based on the needs identified by each district. Significant work has progressed through those components, with schools and with preschools eagerly submitting plans for related projects. I am extremely pleased that these initiatives have had a positive start and have created great interest across schools and preschools. Of course, the schools and preschools need to plan effectively for the ongoing development and maintenance of all aspects of information and communication technology for the ultimate benefit of South Australia's school students.

The DEPUTY SPEAKER: I remind ministers again that they need to keep answers tight. Maybe the staff could do a course on being more precise in the answer to be given.

MENTAL HEALTH FACILITIES

The Hon. DEAN BROWN (Leader of the Opposition): My question again is directed to the Minister for Social Justice. What is the minister's response to the Public Advocate's claim that the government's policy regarding the

refusal to accept intellectually disabled and brain damaged clients at James Nash House is contrary to the mental health statement of rights and responsibilities signed by all commonwealth states and territories of Australia? In his most recent report, tabled yesterday, the Public Advocate said:

> In addition to this, Mental Health Services has directed that they will no longer receive into James Nash House any clients who suffer from an intellectual disability or brain damage.

The Hon. L. STEVENS (Minister for Health): I am aware of the statement that has been made by the Public Advocate. The Director of Mental Health Services, Dr Jonathan Phillips, is taking up that issue at this time with the IDSC and DHS Disability Services.

EDUCATION, YOUNG MOTHERS

Ms BREUER (Giles): My question is also directed to the Minister for Social Justice. How is the government encouraging young mothers to continue with their education in the Whyalla area?

The Hon. S.W. KEY (Minister for Social Justice): I thank the member for Giles for her question and acknowledge her advocacy for her electorate. I am very pleased to say that a $20 000 youth empowerment grant has been made available to help young mothers reconnect with school life through a daily sewing group held at the Edward John Eyre High School. The group, which has grown in its first 10 weeks, is a great support network for young mothers who may not have considered returning to school. By teaching these young mothers life skills, they are gaining greater confidence in the community and developing an interest in returning to education.

It is a good opportunity to thank Kirsty Rogers, the Alternative Pathways Program coordinator at Stuart High School. Ms Rogers initiated the program because she was concerned by the number of young mothers who were dropping out of school. She decided to try to bring them back into the school environment by teaching them how to sew for their babies. After personally contacting 50 mothers about the program, Ms Rogers now picks up 17 mothers in a bus five days a week and takes them to the three hour sewing classes, not only to sew clothes and blankets for their babies but also to share experiences with other mothers.

Ms Rogers says the women have been surprised by the quality of their own work and, with their increased confidence, many are starting to talk about going back to school full time. I am told that this program is proving invaluable in boosting the young women's confidence and their desire to re-establish themselves in the school community. In addition, the young mothers are also learning from health professionals each fortnight about issues relating to caring for their children, which will also improve their parenting skills. Again, I acknowledge the support and input of the member for Giles in this whole program.

HEALTH, REGIONAL SERVICES

Mr WILLIAMS (MacKillop): My question is to the Minister for Health. How much money has each of the seven regional health services been allocated for this financial year from the additional $4 million announced for regional health during the minister's recent visit to Mount Gambier?

The Hon. L. STEVENS (Minister for Health): I will be very happy to get that information for the honourable member. I do not have it at my fingertips right now.

Members interjecting:

The Hon. L. STEVENS: Give it a break! We have a multimillion dollar budget; I do not remember every line. I will get the information for the honourable member.

ENERGY, CONSERVATION

Mr RAU (Enfield): Can the Minister for Energy provide the house with further information about a reduction in energy use at the North Terrace precinct that will contribute to the government's overall target of reducing energy use in government buildings by 15 per cent by 2010?

The Hon. P.F. CONLON (Minister for Energy): No doubt the member for Enfield remembers that I explained some of this before and promised to bring some numbers back to the house. No doubt, too, that is what has spurred this question. I just happen to have them with me in case someone asked.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, the member for Mawson, again!

The Hon. P.F. CONLON: As members will recall, early indications from the installation of variable speed drives onto the fans at the Art Gallery in the air-handling units, completed in July 2003, are that a further 20 to 30 per cent energy savings will be achieved. While the government, through Arts SA, provided $65 000 to do the works, expected savings are around $85 000 per year—an outstanding outcome. Based on energy savings to date, greenhouse gas savings of the order of 900 tonnes of $C0_2$ per year are expected.

In general, the precinct is a very good example of how the government's energy efficiency target can be achieved. In 2001, the precinct was spending over $1 million per year on electricity and gas. A series of initiatives have been implemented at the precinct over the past two years. Including those at the gallery, energy conservation measures have been implemented at the Natural Science Building, giving an outstanding 25 per cent energy use reduction over the trial period, and the very much commented on installation of solar panels at the Museum and the Art Gallery—the beginning of the North Terrace power station. The overall cost of the initiatives implemented in the precinct is just under $495 000, with savings of the order of $155 000 per year. That is a pay back period of about 3½ years, which is outstanding. But it is even more outstanding when you understand that, if you separate out the solar panels (which have a pay back period of something like 20 years), the other efficiency measures achieved at a low cost have delivered huge results. This is a great indication of what can be done if one has the will and the leadership, and we hope to do much more of it.

SMOKING BANS

Mr HANNA (Mitchell): Has the Treasurer expressed any view to any member of the AHA about the timing of implementation of smoking bans in licensed premises, including gaming rooms?

The Hon. K.O. FOLEY (Treasurer): Yes, I have. As the Treasurer of this state, I have certain views about this issue—and, from what I can gather, so does every other member of the house. I understand that each political party is yet to determine its position in terms of how it will approach this matter in the house. I understand that members opposite may be considering a conscience vote: I do not know.

An honourable member: We are.

The Hon. K.O. FOLEY: Well, fine. When the time comes for the government to debate this matter in cabinet—in caucus—I will argue my particular view. Until that point, I will share my view with my colleagues. But I will say this: if the Leader of the Opposition wants to know my view, perhaps he might tell us his view.

Members interjecting:

The DEPUTY SPEAKER: Order! When the house comes to order we will have another question.

WEST TERRACE CEMETERY

Ms CICCARELLO (Norwood): My question is directed to the Minister for Urban Development and Planning. What are the government's plans to protect and promote the West Terrace Cemetery?

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): I thank the honourable member for her question. I understand that she has a keen interest in heritage matters and, in particular, the way in which our cemeteries are managed. Today, the government has released the West Terrace Cemetery Management Plan, which will make the cemetery fully operational once again. We have been able to find a way of providing for 200 new sites a year to be released in the future. The plan will also take a long-term view—

Mr BRINDAL: Sir, I rise on a point of order. This house has ordered the formation and consideration of a select committee on this matter. Sir, you chair the select committee, and it is about to report. I wonder if the minister is not pre-empting a debate on a matter that will be debated in this house as a result of the select committee's report.

The DEPUTY SPEAKER: The minister needs to be careful in the answer that he gives, because the select committee is due to report soon: it is on the *Notice Paper*. So, the minister needs to be careful, in terms of his remarks, not to pre-empt or prejudice that report.

The Hon. J.W. WEATHERILL: Sir, I am confining my remarks entirely to the management plan that was launched today, which does not bear on the questions that no doubt will be canvassed in the select committee's report. I think the honourable member is concerned about the grave reuse issue. Certainly, the additional 200 sites at this cemetery will not be the subject of reuse. So, his concerns are misplaced. The plan takes a long-term view about the cemetery. This is really one of the forgotten treasures of South Australian heritage. The West Terrace Cemetery has 160 years of rich history. Of course, it is the final resting place for many of the state's pioneers—such prominent people as Percy Grainger, Carl Linger, former premiers Charles Cameron Kingston—

Mrs REDMOND: Sir, I rise on a point of order. The minister just mentioned that the cemetery is the final resting place of pioneers. It is my recollection that that is one of the considerations of the terms of reference of the select committee.

The Hon. J.W. WEATHERILL: We are not proposing to dig them up, sir. We are proposing to celebrate the fact that they exist, and that is the point.

An honourable member interjecting:

The DEPUTY SPEAKER: Order, the member for Mawson! The minister has the call. He has to be careful and, as I said before, not pre-empt or in any way prejudice the select committee's findings.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: Apparently relatives of many eminent persons, including the Minister for Social Justice. And the important point is that we have now mapped, in a much more extensive way, all the graves of people who have their final resting places at the cemetery. Computer technology is capable of being simply accessed, allowing people to trace their ancestry, if they are minded so to do. Also, because of the nature of the historical record and the particular story told by a number of very prominent people in the state's history it is a fascinating opportunity for tourists and, indeed, local South Australians to find out more about this state. This is a far-reaching plan. It maps out the future for this important part of South Australia, and we commend the revitalised West Terrace cemetery plan to the house and to the community generally.

STATE ECONOMY

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Treasurer. Does the Treasurer agree with all the contents of the Standard and Poor's ratings study which he highlighted today? He may have asked for it to be put in small print, but I will quote from the report, which states:

> A marked improvement in financial strength.
>
> Two key factors have tamed South Australia's net debt burden, following the spike in debt in the early 1990s associated with the bailout of the troubled state-owned financial institutions.
>
> In order of importance, they are:
>
> · Privatisation of the state's electricity assets in 2000 and 2001, which reaped almost A$5 billion, most of which was used to pay down debt, and was a key factor in the December 1999 rating upgrade to 'AA+' from 'AA'.

Does the Treasurer agree?

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr Koutsantonis interjecting:

The DEPUTY SPEAKER: Order! The member for West Torrens is not the Treasurer, as far as I know. The Treasurer has the call.

The Hon. K.O. FOLEY (Treasurer): The opposition's pride in the sale of ETSA is well known, and I am happy for it to be proud about the sale of ETSA. When those electricity prices go up, all of South Australia will remember—

The DEPUTY SPEAKER: Order! There is a point of order. The Treasurer will resume his seat. Before I take the point of order, the member for Mawson is warned. He has flagrantly defied the chair, and he will get flagellated if he is not careful. The member for Unley has a point of order.

Mr BRINDAL: The leader asked a very specific question, which was limited to whether the Treasurer endorsed and accepted the statements made in the financial report. He was not asked to canvass what the Liberal government thought.

Members interjecting:

The DEPUTY SPEAKER: Order! The question was a very general one.

The Hon. R.G. KERIN: Sir, as a point of order, you say it was general but the question was, 'Does the Treasurer agree?'

The DEPUTY SPEAKER: The question is very general in relation to the whole report. The Treasurer can answer in relation to part of the report or all of the report: it is his call. The Treasurer.

The Hon. K.O. FOLEY: I don't know where the opposition was when I was—

Members interjecting:

The Hon. K.O. FOLEY: They are a quick lot. They have had this report for five hours or six hours. How long ago did they go to their post boxes? Late morning? I said—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. K.O. FOLEY: It has not been sent?

An honourable member interjecting:

The Hon. K.O. FOLEY: Well, it should have been.

An honourable member interjecting:

The Hon. K.O. FOLEY: I apologise then. It should have been sent.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. K.O. FOLEY: I was advised that they had been sent to the opposition today and, if they have not been, well, so be it. Mr Deputy Speaker—

Members interjecting:

The DEPUTY SPEAKER: Order! The house will come to order, and the Treasurer might answer the question.

The Hon. K.O. FOLEY: In my statement, I said:

> Notwithstanding the report's recognition of the debt reduction by the former government, it makes it clear the job was far from done.

I have actually said—

The Hon. W.A. Matthew: You made a big mess. Of course it was not done.

The DEPUTY SPEAKER: Order! The member for Bright is out of order.

The Hon. K.O. FOLEY: I have actually acknowledged that the sale of ETSA significantly reduced the state's debt. I have said that time and again.

Members interjecting:

The Hon. K.O. FOLEY: Well, that is stating the bleeding obvious.

Members interjecting:

The DEPUTY SPEAKER: Order! The Treasurer will resume his seat and the house will come to order. The member for Wright—

Mr Scalzi interjecting:

The DEPUTY SPEAKER: Order! The member for Hartley will calm down and the member for Wright will be silent. The Speaker has been trying to indicate some need for reform during question time. It does not appear that the lessons are being learnt. The Treasurer will answer the question, and if he has answered it he will sit down.

The Hon. K.O. FOLEY: I will conclude and say this: since becoming Treasurer, I have never walked away from the fact that the state's reduced debt burden was as a result of the sale of ETSA. That is the obvious. But what members opposite never did, and what we have done, is to get their financial house in order. We are living within our means. The opposition never balanced the budget. Well, very rarely did it balance its budget. On accrual accounting—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. K.O. FOLEY: —it never achieved a balanced budget.

The DEPUTY SPEAKER: Order, the Treasurer is debating the point now. The question required a short answer: we got a long rhetoric. The member for Bright.

ELECTRICITY, SNI INTERCONNECTOR

The Hon. W.A. MATTHEW (Bright): My question is to the Minister for Energy. How much has been spent by his government on legal representation against TransEnergie, the operators of the Murraylink interconnector? The opposition has asked on many occasions questions concerning the cost to government, including on 1 April this year and again during budget estimates on 24 June this year. To date, the government has not provided any cost information for taxpayers.

The Hon. P.F. CONLON (Minister for Energy): I can honestly say that, in my perspective, we have spent far more than I would ever have wanted to and far more than we ever should have had the previous government not gone down the path of supporting an entrepreneurial interconnector. Let us be absolutely clear—

The SPEAKER: Order! The member for Bright has a point of order.

The Hon. W.A. MATTHEW: I rise on a point of order, Mr Speaker. I asked the minister a very specific question—

The SPEAKER: Order!

The Hon. W.A. MATTHEW: —and the minister is now seeking to debate the issue and run-off at a tangent. He is refusing to provide the house with the figures requested.

The SPEAKER: The minister has the call and I remind him that questions are to be answered, not debated.

The Hon. P.F. CONLON: I cannot give an exact figure, and one of the reasons we cannot do that is because those matters are not concluded. It is hard to give a figure on legal action when it is not concluded. But I can say and I will say that it is far more than I wish this government, on behalf of South Australia, ever had to spend. It is, in my view, being spent entirely because of an abject mistake in policy by the previous government. I am quite happy to bring back to the house an up-to-date report on how much the abject failing in policy of the previous government has cost the taxpayer of South Australia so far. However, I cannot understand how the member for Bright could possibly take pride in it.

SOUTH AUSTRALIAN SPORTS INSTITUTE

The Hon. D.C. KOTZ (Newland): My question is directed to—

An honourable member interjecting:

The SPEAKER: Order! The member for Newland has the call. The Minister for Infrastructure does not ask questions, he answers them.

The Hon. D.C. KOTZ: Will the Minister for Recreation, Sport and Racing advise the house what alternative facilities will be open to elite athletes to train after the South Australian Sports Institute introduces a proposal to curtail gymnasium opening times from 1 January 2004? A public forum on the future of the SASI gymnasium on Monday night was told that the gymnasium would be closed to the general public from 24 December this year and that new opening guidelines from 1 January 2004 would limit elite athletes to training only during severely curtailed set opening times.

Attendees at the forum have also advised me that the athletes were told that they would be unable to train without a coach present. Concerns were raised about the difficulties for athletes and coaches to schedule work and other commitments to fit these opening times, leaving elite athletes unable to train at all.

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): I thank the member for her question. If I interpret her question correctly—and I apologise if I do not—this is something that has been discussed for some time in regard to the use of the gymnasium at SASI. I infer from

the member for Newland's question that it was about elite athletes, although I am not certain whether I have interpreted her question correctly. If I have not, I would ask her to clarify it for me.

My understanding of the issue relates to the use of the SASI gymnasium by the general public, and this has been looked at for some time now in relation to whether that would be ongoing or whether the SASI organisation needs to return to its core services. As part of the debate about what SASI has been doing (I recall the member referring to public meetings), it has had discussions with those people who have been using the gymnasium as members of the general public. They have been looking for, as I understand it, and have actually negotiated, a concessional arrangement with KP Fitness Centre for people wishing to transfer to the local gymnasium.

The Hon. D.C. Kotz: I am talking about elite athletes not being able to train because of the set circumstances.

The Hon. M.J. WRIGHT: I am not aware of elite athletes not being able to use the gymnasium. I am aware of the other issue with regard to the elite athletes to whom the member for Newlands refers. As I said, I am not aware of that, but I will check that and come back with that detail.

ELECTRICITY GENERATION

The Hon. W.A. MATTHEW (Bright): Will the Minister for Energy advise the house what action he has taken over the past 20 months in the job to encourage the construction of additional baseload electricity generation in South Australia?

The Hon. P.F. CONLON (Minister for Energy): The interaction of my office with the private sector in the past 20 months has been a very busy and lengthy one. Instead of wasting the time of the house going over the past 20 months, I will bring back—

Members interjecting:

The SPEAKER: Order! The member for Bright has asked his question. The Minister will now answer.

The Hon. P.F. CONLON: We did a couple of things. One of the first things we did was make sure that there was enough gas for people who might want to generate electricity, as we generate 70 per cent of our electricity from gas. One of the more important things we did, as he really wants to know, was clean up a disastrous situation for South Australia. I refer to NRG Flinders, and you would remember the deal that the previous government did with NRG Flinders—including setting out a liability—and, without going into all the shortcomings and failings of that—

The Hon. W.A. MATTHEW: I rise on a point of order. My question was very specific. I asked the minister what he has done to increase the baseload of electricity generation. The minister has not addressed that issue.

The SPEAKER: I guess the member for Bright would realise that in many instances gas is used for the purposes of firing co-generation generators and that the minister's answer relates to the increased supply of gas. It is not for me to try to translate what a minister is saying for the benefit of honourable members. In short, I think the minister should persist with his answer where it directly relates to the nature of the inquiry.

The Hon. P.F. CONLON: Can I then explain to the member for Bright why NRG Flinders is relevant?

The Hon. W.A. MATTHEW: On a further point of order: Mr Speaker, I believe you were momentarily distracted at the time I rose to my feet. The minister had moved from talking about gas capacity in the state to talking about the issue of NRG Flinders, and was then debating over opposition activities. He was not addressing the question.

The SPEAKER: I think he has got the hint.

The Hon. P.F. CONLON: I will try to do this slowly because, plainly, the member for Bright does not understand the relationship between NRG Flinders and new capacity in this state, which does tend to make you wonder what he was thinking about when minister. One of the things that has been occurring up there is the upgrade of Playford North, I think they call it: a 220 megawatt upgrade to our base capacity. This was thrown into grave danger by the utter reckless foolishness of the previous government in the nature of the privatisation deal up there. We have a company which, in the United States, is in Chapter 11 bankruptcy, and this government worked very hard to make sure that that was a going concern, that the upgrade continued, and will add 220 megawatts to our capacity in this state, and to avoid the obscene liability imposed on the taxpayers of this state by the government with that Flinders Trading contract.

I can go through the number of other additions to capacity. I went down and helped to open the co-generation plant down at Coopers Brewing. We were working with people in the south about biomass projects. We have, of course, seen the addition of wind. The most significant addition of wind in the history of this state will occur under this government. To provide more capacity, we have also negotiated with the ministers in New South Wales and Victoria in a way that the previous government never could, to do the upstream works from New South Wales into Victoria which will overcome the disastrous inheritance that we had with their Murraylink unregulated, then regulated, interconnector. I will bring a long screed back for the member for Bright to read. I will put it in small words so that he understands it, but I am not going to waste the time of this chamber by going further into the hard work that we have done to try to fix the mess.

SOUTH AUSTRALIAN SPORTS INSTITUTE

The Hon. D.C. KOTZ (Newland): My question is to the Minister for Recreation, Sport and Racing. Will the minister advise the house what alternative arrangements—

Members interjecting:

The Hon. D.C. KOTZ: I can't hear myself, and I am sure the minister cannot hear. Will the minister advise the house what alternative arrangements will be made for school sporting groups, which have used the facilities of the gymnasium at the South Australian Sports Institute, when the gymnasium is closed to all members of the public?

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): I thank the member for Newland for her question. As I answered in my last question, the issue that I am aware of is the use of the SASI gymnasium by people who have been given access to it by the general public in the past. In respect of that there have been consultations, ongoing public meetings, and I think, I would have to—

The Hon. D.C. Kotz interjecting:

The Hon. M.J. WRIGHT: The member for Newland interrupts, but I will check this. It is my understanding that there may be another public meeting that is due to be held, but I would like to check that because I am not 100 per cent certain.

The Hon. D.C. Kotz: There actually is, but we would like to know about that one because—

The Hon. M.J. WRIGHT: The member for Newland now says there is a meeting: a moment ago she said there wasn't a meeting. So, that is my understanding and, as I said previously, the discussions and the negotiations that have been taking place have been in respect to the general public that have previously had access to the gymnasium and as to how and when SASI can return to the gymnasium being used for its core responsibilities. Those discussions are ongoing, but it is no secret that SASI wants and needs the gymnasium to be used for its core responsibilities.

ROCKY RIVER

The Hon. I.F. EVANS (Davenport): Why did the Minister for Environment and Conservation tell the house that he was unaware of the views of the Kangaroo Island Council and Tourism Kangaroo Island about the concept plan for the Rocky River precinct when memos addressed to the minister and received by the minister's office prior to his giving the answer to the house say, 'Considerable consultation has occurred throughout the concept planning process. The plan has widespread support including that of Kangaroo Island Council and Tourism Kangaroo Island'? On 7 August, I asked the minister:

> Did the concept plan for the Rocky River precinct have the support of the Kangaroo Island Council, Tourism Kangaroo Island and the Kangaroo Island Consultative Committee?

In his answer the minister said:

> I'm not aware of the particular views of the bodies that you refer to.

Briefing notes, including one entitled 'Rocky River development: removal of residents', dated 12 April and received by the minister's office on 17 April, some four months before he gave that answer to the house, say:

> Considerable consultation has occurred throughout the concept planning process. The plan has widespread support, including that of the Kangaroo Island Council, Tourism Kangaroo Island, commercial tour operators and many members of the Kangaroo Island Consultative Committee.

The Hon. J.D. HILL (Minister for Environment and Conservation): I will have a look at that matter very closely, check out the statements he has made and get a report back to the house.

GRIEVANCE DEBATE

CHILD ABUSE

Dr McFETRIDGE (Morphett): In May last year, just shortly after this government came to power, it released a report on child protection, 'The child protection review discussion paper', which was followed up by a report by Robyn Layton QC. In the front of the discussion paper, there is a list of agencies available to protect children of our state. In the introduction to this discussion paper (page 5) it says in regard to the overall aim:

> Society is often measured by how well it provides for, and supports, its most vulnerable citizens. Infants, children and young people need families, communities and environments to nurture, protect and enhance their wellbeing. Protection of children requires governments, communities and organisations to work together.

The discussion paper then goes on to list the key agencies in the Department of Human Services, including agencies such as FAYS, the Child Protection Service, Child Adolescent and Mental Health Service, community health centres, child and youth health, DHS grants programs, the sexual offenders treatment assessment program and Yarrow Place. The Justice Department has South Australia Police, the Office of the Director of Public Prosecutions, the Crown Solicitor's Office, the Youth Court, the office of the Ombudsman and the Department of Correctional Services. The education sector has the Department of Education, Training and Employment, Special Investigations Unit, Children's Services (Licensing and Standards) and DETE. Non-government education bodies include the Association of Independent Schools of South Australia and South Australian Commission for Catholic Schools. Non-government community services organisations include the victim support service.

There is a plethora of agencies there that should be protecting the young people of this state. However, the children of this state are being allowed to suffer. This government came into power with a huge agenda, one of which was touted was that of protecting the more vulnerable members of our society.

I issued a press release on 12 September, entitled 'Suffer the little children'. I said that I would be calling on the Premier to show genuine concern for child victims of sexual abuse. In the house that day, I asked the Premier whether he would be requesting the Catholic Archbishop of Adelaide to present the results of the inquiry into sexual abuse of children at St Ann's Special School. I have asked that same question of the Premier again, and I am getting less than direct answers. The Premier is heading in the right direction but he has not said that he will ensure that the report is tabled.

On the Channel 7 *Today Tonight* program last Monday night, parents and counsellors of the victims of this paedophile, Brian Perkins, were interviewed. Some startling revelations were made there about government cover-ups, shredding of government documents and less than satisfactory investigation by the Catholic Church. In today's *Advertiser*, there was another report alleging that Perkins was not acting by himself.

Over the last 12 months, I have had a number of parents of individuals affected by Mr Perkins and his disgusting behaviour seeking my assistance. I am asking of this government what the deputy leader has been calling for, that is, a full and frank inquiry—nothing less than a royal commission—into the sexual abuse of children in this state. The parents of those children are calling for full and frank disclosures. They want somebody to take responsibility. They need somebody to show leadership. Whether it is an individual, an organisation or the government, somebody needs to show the lead here and we are not seeing it from this government.

I have written to the then minister for police, the Hon. Pat Conlon, a number of times on this matter. I received some replies. I have in my possession a number of very distressing letters from parents of these children. It is unbelievable when you see the horror these parents have had to endure, never mind the horror with which their children are having to live. The parents are trying their very best, when the Catholic Church will not be as open and frank as it might be. I believe a report is being finalised this month. This matter has been investigated over the last 14 or 15 months. We want the results tabled in this place. We want a full, open and frank discussion of that report.

We need to be able to point the finger at the people responsible for the despicable acts of paedophilia and sexual abuse of our vulnerable members of society. We cannot allow this to go on. I do not care who they are, whether they are of the highest judicial field such as Liddy, or any others: they have to be investigated, and this house has to do it as soon as possible.

Time expired.

LOCAL GOVERNMENT AWARDS

Ms THOMPSON (Reynell): I rise today to congratulate the City of Onkaparinga on its selection as the category winner in the Youth Engagement Category of the 2003 National Awards for Local Government. I know that the Minister for the Southern Suburbs, who is also the member for Kaurna, joins me in congratulating the City of Onkaparinga for yet another national award showing its innovation and excellence in services. The award was for the entry called 'Creating Places,' which, as the letter from the federal minister congratulating the city indicated, is a particular achievement, as the standard of entries was very high this year, with 355 entries being considered. So, that is indeed an achievement. The City of Onkaparinga is now a finalist for a national award which will be announced in November. The minister and I wish to place on record our good wishes to the council in the judging in November and our confidence that its excellent work will be recognised.

The Creating Places scheme fits in very nicely with the council's forward plan, which indicates the need to develop a sense of the place in the south. This is their recreation and open space strategy, which has the objectives of promoting community, physical and mental health and wellbeing, maximising tourism opportunities and the potential of the recreation and open space industry, and the creation of jobs. It seeks to protect habitats and biodiversity, preserve open space and promote environmental education and awareness.

In terms of open space, it wants to provide a range of opportunities through the management of an integrated open space system. It has access objectives of providing a range of quality opportunities relevant and accessible to the needs of the community. Finally, it seeks to manage and maintain open space and recreation facilities effectively and equitably.

The projects that came under the Creating Places scheme were very exciting, and I am quite familiar with a number of them, which I will mention in a minute. The most important thing about the Creating Places program is that it moves away from the council determining what the community might want in terms of its facilities, whether that is creation of new facilities, management of ongoing facilities or repair of existing facilities, and it moves to a scheme of involving the community not only in the decisions about their community facilities but also in the planning and construction of the new facilities; so, it really meets the needs of the community.

This project has sought particularly to involve the young people of the south and it has involved them in planning skills, communication, consultation and enterprise skills as, in some cases, they seek to obtain the funding for the projects that they have identified as being necessary. Projects in my near area include the Christie Downs mosaic project at the Christie Downs Community Centre, where high school students and community members came together to learn the art of mosaic creation, laid the pathway, celebrated its opening and now guard that pathway with great vigilance. It is astounding to see the range of mosaic tiles that were created in that project.

There have been several projects involving the Hackham West Primary School—a streetscape, a pathway and a playground partnership with council. There is also the upgrade of the Seeger Cooder Reserve, which involves an amorphous group of Morphett Vale Community Youth, who were regarded by the Housing Trust, Mission Australia and various council departments as being at risk of engaging in quite considerable unsociable behaviour. That project has brought together not only the young people in the area to determine how they would like to create their own play and recreation facilities but also the parents. Now, some parents and community members no longer see the kids down the road just as pests and problems but as children with energy, with problems, but with a desire to be part of the community. Their desire is evidence of the way in which they have got involved in building their community. It is an excellent project.

Time expired.

BUSHFIRES

Mr GOLDSWORTHY (Kavel): I would like to continue my comments from yesterday's grievance debate. I did not have enough time to make all the points I wanted to because of interjections from both sides of the house, particularly from government members. Nevertheless, I will continue my remarks on bushfire hazard reduction and make some general comments on that issue. Yesterday I spoke about the initiatives that the government has put in place to cold burn only a small percentage of our national parks and reserves. I calculated that to be one-third of 1 per cent. However, as I said, I was encouraged by the manner in which the fire authorities are going to implement those cold burns. They will use strip mosaic burning, which burns several kilometres in length by about 100 metres or so in width, creating some firebreaks in the Hills.

I believe that the government has been slow and lacking in its approach to this matter, because it could have picked up from where the previous Liberal government left off. As we know, it is 20 years this year since Ash Wednesday and I am really concerned—worried—as I stated yesterday, that many people who have moved into the Hills since Ash Wednesday are unaware of the bushfire risk they face. Many South Australians experienced the devastation of that day 20 years ago, and I know that some members in this place suffered considerable loss in that fire. I also know that the families of one or two members experienced tragedy in that fire. I will not go into that issue in any depth because they regard it as a personal matter.

Property owners in the Adelaide Hills need to carry out proper bushfire safety and fuel reduction work on their properties. We have had a long, wet winter and the fuel loads in the Hills are at an extremely high level. I know that this state faces a potential risk every year, but I truly believe, having lived in the Hills all my life, that we are really facing an extreme risk. Talking to fire prevention officers and Forestry SA staff, I know that it is a fact that cold burns are best performed in the autumn. I only hope and pray that we get through this summer without a catastrophe occurring so that the government can look to implement an increased fuel reduction and cold burning program in the autumn months next year.

Part of me still believes that you can carry out cold burns quite safely in spring, but from talking to the experts in the field I know that there is concern that, if burns are carried out in spring, they can burn through the roots underground and can spark up in the middle of summer. Apparently a fire started in the Mid North because the authorities did some burns in the spring and that exact situation occurred. A fire started in the summer as a result of the burning off in the spring. It is no good residents looking to clean up around their properties in the middle of summer, in the middle of December, when the fire season is well and truly upon us. I implore everyone who lives in the Hills to understand that now is the time to start looking at their fire reduction programs, not to wait.

Time expired.

RECREATIONAL FISHING

Mr CAICA (Colton): I am a recreational fisherman, although correctness requires me to say that I am a recreational fisher. Be that as it may, I use whatever opportunities I can to go fishing. Unfortunately, in this day and age, with competing interests, I do not go anywhere near as often as I would like. Fishing is very good exercise. It is healthy, it is refreshing, it is relaxing and, on occasions, it can be productive because you can take home something to eat.

I highlight at the commencement of this contribution the economic contribution made by recreational fishing in South Australia and Australia. By way of example I point to the recent school holidays, when I took my son James down to the most beautiful part of Yorke Peninsula, Innes National Park, to target some salmon. I have caught an enormous amount of salmon over the years. On this occasion, unfortunately, for a variety of reasons, I got not one fish. It was very disappointing, but the economic contribution that I made in that exercise was in the vicinity of $400 for those couple of days, incorporating fuel, bait, accommodation and the costs involved in entering the most beautiful Innes National Park. I am happy to pay those expenses and cover those costs if I am able to take home a couple of fish. As I said, I targeted salmon, and it has been most unfortunate that the last two times I have been down to Brown's Beach at Innes National Park I have returned from the beach empty-handed.

There are three commercial boats in South Australia that target salmon, and I understand that they take in the vicinity of 1 000 tonnes per annum. Without concrete evidence, I suggest that that is having an impact on the recreational fishers targeting those fishes in those areas. My point is that I will continue to go down to Brown's Beach, or anywhere else, only as long as I am guaranteed on most occasions of bringing something up the beach. So, the economic contribution that I make through recreational fishing will be lost if the fish are not there: it is as simple as that.

That applies to other recreational fishers, as well. It involves not just salmon, because the taking of various other species of fish by commercial fishermen impacts on the ability of recreational fishers to maintain a decent level of catch. Using that three-day trip as an example, I understand that salmon, for instance, will be sold for approximately $1 a kilo by commercial fishermen. I will equate the cost involved with the fish that I did not catch. If I had caught 20 kilos of salmon on that trip, the cost would have equated to between $17 and $20 per kilo of the fish that I did not catch. But if I had caught them, that is how much it would have cost.

There needs to be a balance between what is caught by the commercial sector and what is caught by the recreational sector. There needs to be a sustainable approach to fisheries management in this state. Indeed, Mr Speaker, I welcomed your input with respect to the future management of the River Murray fishery, and something also needs to be done about the fisheries as they apply to our local seas.

The big question is: how do we do that? How do we create a situation where sustainable fishing will occur? One of the things that surprised me (and I think it was a big mistake made by a previous government) was the sale of fishing licences. Those fishing licences should have remained in the control of the state: they should not be owned by any one individual. But be that as it may; that is water under the bridge and cannot be rectified. So, the situation arises today where, if we want to create a sustainable fishery, things need to be done. One of those options might be the buyback of fishing licences.

I draw to the attention of the house the *Yorke Peninsula Country Times* of Tuesday 14 October, which ran a story on a public meeting which was attended by 100 people. They suggested similar types of things—the buyback of licences, a banning of netting from certain areas and the targeting of certain fish (that is, a recreational fish or a commercial fish).

We also must realise that the recreational fishing sector has to play its part. There is more equipment, more boats, more ramps and a whole host of things that have advantaged recreational fishers. But they will only continue to advantage our economy provided that they can catch some fish. There needs to be a balance. I am very pleased that the minister (Hon. Paul Holloway) has developed a green paper, through consultation, which will be the subject of further consultation, and I hope that we can create a sustainable fishery.

ANTISOCIAL BEHAVIOUR

The Hon. G.M. GUNN (Stuart): I wish to raise the issue of the deplorable conduct of certain people who occupy a house at 23 Glynde Street at Port Augusta. This house—

Ms Breuer: That's a bit off. You can't talk about people and identify them like that.

The SPEAKER: Order! The member for Stuart has the call. The member for Giles will come to order.

The Hon. G.M. GUNN: This house has been let by Aboriginal housing—

Ms Breuer: For heaven's sake, this is disgraceful.

The Hon. G.M. GUNN: The honourable member should listen. I take it that the honourable member supports the antisocial behaviour of those people who have terrorised the whole street. My constituents in that street have been long suffering. One poor lady had her front fence flattened; other people have had—

Ms Breuer: There are other ways to deal with it, rather than identifying them in the house like this.

The SPEAKER: Order, the member for Giles, for the second time!

The Hon. G.M. GUNN: The people who live in that street are at their wit's end. They have been through the process; they have made the complaint. They have been to the Residential Tenancies Tribunal, and they are still being hindered, harassed and tormented by this antisocial group. My staff and I have spoken to the people in charge of the housing, and these people should be evicted. The real problem is those who associate with these people—banging on people's doors in the middle of the night and upsetting the

whole street. This matter has been going on week after week. What other resort do these people have? The matter should be raised in this place, and the minister should take some firm action. I firmly believe, as do my constituents, that they are entitled to have peace and quiet—and people who come and live in that street should appreciate that—and they should be able to protect their privacy and property.

I will tell members how bad it has become. The lady who occupies this house had her head split open after being hit by her visitors with a letter box. And still this behaviour continues. Counselling has taken place, but the problem still exists. My constituents have had enough of it. They went to the Residential Tenancies Tribunal, but they did not get satisfaction. They are now going to appeal that decision. But how much more do they have to put up with? Many of these people have lived in this street for many years. They are ordinary, decent, hardworking, law-abiding citizens, and they should not have to put up with this behaviour. If the member for Giles is upset with me, too bad. If she wants to support those elements who are disruptive and have no regard for other people's rights, I cannot help that. The community does not have to put up with this.

The other matter that I want to raise is even more serious. I have had the parents of a 2½-year old child complain to me about what has taken place in the court system. A person was charged with rape and taken to court and, because the judge was not satisfied with the information—the information of the 2½-year old child—even though the person charged was clearly implicated by the DNA test as being the person responsible, he has now been let out into the community. The parents of this child are beside themselves, and they have come to me to see what should happen. I think it is a disgraceful set of circumstances.

I am not sure what we can do, but I just want to say to this parliament that I know the name of the individual. Unfortunately, these types of people are likely to reoffend and, unless I can be given some assurance that the community will be protected against these people, I will have no hesitation in naming that individual in this house. The parents of this 2½-year old child are absolutely beside themselves. The child has been through an absolute trauma, and a person has been allowed to walk away scot-free. What sort of society are we living in when we tolerate this sort of behaviour? It should not be. If the court system is so pedantic that it will not accept commonsense, heaven help us all.

VTV 4 NEWS PROGRAM

Mr SNELLING (Playford): I rise to protest the broadcasting of the VTV 4 news program of Vietnam Television on SBS's daily morning *World Watch* service. Vietnam Television, which produced this news program, is the state-run television network of the regime in Vietnam, and its chief tool of propaganda. The broadcasting of this program, I think, shows a lack of cultural sensitivity on the part of SBS. As I understand it, the program begins with the communist anthem and the communist flag, which many of my constituents who have escaped persecution by the Vietnamese regime find most offensive. The news that is presented does not question or mention any of the human rights abuses, including the lack of freedom of religion, freedom of the press, freedom of association and freedom of speech.

There are over 200 000 Vietnamese Australians, and the majority of them, as I said, are refugees who have escaped the current regime. It is understandable that many of them are distressed, having viewed what can only be called propaganda that is being broadcast courtesy of the Australian taxpayer. The SBS code of practice requires the broadcaster to be independent, fair, impartial and balanced. The broadcast of the VTV4 news breaches, I think, each of these requirements.

I request that the managing director of SBS, Mr Nigel Milan, and the head of SBS television, Mr Shaun Brown, review their decision to broadcast this program and save continuing distress for many of my constituents.

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

A quorum having been formed:

GENE TESTING SERVICES (PUBLIC AVAILABILITY) BILL

Dr McFETRIDGE (Morphett) obtained leave and introduced a bill for an act to ensure that certain forms of genetic testing remain reasonably available to members of the public. Read a first time.

Dr McFETRIDGE: I move:

That this bill be now read a second time.

Back in 1953 when Watson and Crick announced in their journal *Nature* that they had unravelled the complexities of the DNA double helix, it certainly opened a brave new world, and what a world that is. It is a very complex world that has become even more complicated in the last 10 years. There has been much research into the world of genetics. We are all aware of the controversy and discussion around the world about gene technology and genetic manipulation of organisms. This bill will ensure that the knowledge that has been elucidated since that discovery by Watson and Crick back in 1953 will be available to each and every member of the public to benefit from.

The aim of this bill is to ensure that medical genetic testing remains available to all members of the South Australian public. It seeks to ensure that the current quality and standard of medical genetic testing services will continue to be provided and that South Australians are protected from being charged unaffordable fees for genetic testing in the future. In the United States, patients are charged thousands of dollars to test for cancer susceptibility genes such as BRCA1 and BRCA2 for breast cancer.

Medical genetic testing is a preventive health care measure which has the potential to provide great future health savings to the budget. It is a growing area of health care which will save the state and federal governments a great deal of money in their health budgets over the long term. In South Australia, through the public hospital system, we currently provide genetic tests for a large number of adult onset diseases as well as inherited and congenital genetic errors. The South Australian state-wide clinical genetic testing program, which provides genetic testing, counselling and advice, is funded at just over $1 million annually.

Medical genetic testing has the potential to impact on almost every known human disease. Genes have been found for many conditions, such as: familial cancers (breast, ovarian, prostate and bowel cancers); skin cancer; stroke and heart disease; HIV; cystic fibrosis; asthma; Crohn's disease; multiple sclerosis; Parkinson's disease; Alzheimer's disease;

and diseases of ageing. Even alcoholism, mental illness and obesity have been related to genetic errors. They can all be tested for, either now or, with current developments, in the very near future. Some 95 per cent of the DNA of every creature on earth has already been patented. How you can patent something that is not novel, is not new and has not been discovered other than having been researched, is something that I am at a loss to understand.

The most publicised and controversial of these patented genes has been patented by a group called Myriad Genetics—that is the BRCA1 and BRCA2 genes which pre-dispose families to breast, ovarian and prostate cancers. In the United States, Myriad Genetics charges patients $5 000 per test. In New Zealand, the demand for millions of dollars in licence fees 'for breast cancer tests and non-coded patents' from Genetic Technologies (a company linked to Myriad Genetics) is jeopardising the entire genetic testing system. I believe the amount that Myriad Genetics is demanding of the New Zealand government is a $10 million up-front fee and then a $2 million licensing fee every year to enable the New Zealand health system to use the Myriad Genetics and GTG particular form of test for breast cancer.

I say 'their particular form of test', but we should remember that, because of the ability of companies around the world to patent genes and, as a result of that, limit the research and testing that is available around those genes, such companies are able to control markets and determine access to genetic testing, something which we have to guard against. It is just starting here in Australia. The most common instance we are concerned with is the genes for breast cancer. Gene patenting is an area that will get bigger and bigger, not only in human medicine but also in veterinary medicine and the agricultural sector.

Patent enforcement has occurred in the United States and has commenced in Europe, Canada and New Zealand. It is only a matter of time before patent enforcement occurs in Australia. Whilst recognising that enforceability of patents is an issue for the federal government to address, the imposition of substantial licence fees would be borne by individuals and by the individual state government. This is what the bill aims to overcome—that is, the quite strong possibility (and it is more like a probability) that companies such as Myriad Genetics and Genetic Technologies will enforce their patents and force governments to pay licence fees or, worse still, force individual patients to pay an access fee for a particular genetic test.

The enforcement of patent rights upon genetic medical testing as has occurred in Canada and New Zealand will:

1. reduce patient access to testing which is currently easily and freely available;
2. increase the cost of testing for the patient and the government;
3. create a division between those who can and cannot afford to have the test done;
4. possibly reduce the quality and standard of genetic tests; and
5. restrict further research and development in this area.

It is important that state parliament recognises the significance of the issue, as it will be the state government which will be ultimately liable and responsible for any costs associated with the national and international enforcement of patent rights upon medical genetic testing.

In South Australia, costs of licence fees will exceed current funding for clinical genetic services. This would result in a freeze of all genetic testing services and impact upon all DNA and diagnostic work that is being done in public hospitals, universities and research laboratories in South Australia. We also need to ensure that we maintain job opportunities in South Australia for laboratory scientists, geneticists, pathologists and physicians. As a minimum, for the benefit of future public health, it is vitally important that we ensure that we maintain the current standards of medical genetic testing, interpretation of results and patient counselling, which is provided through the public hospital system at a state level throughout Australia.

This is a true social inclusion and social justice issue. This issue has far-reaching implications, which are being examined by the Australian Law Reform Commission (ALRC), that is, in the area of life and health insurance, employment and equal opportunities, and research and development. The submission to the ALRC is one that I am looking at closely. I have put in a submission myself to make sure that it is well and truly aware of the ramifications of the enforcement of medical patents.

Questions which need to be asked and which, certainly, are being put to the ALRC include: why were patents issued in the first place? As I said previously, a gene is not something that is novel, it is not new. It has not been invented. It belongs to all of us. There is common genetic material across and within species. As I said before, 95 per cent of all DNA of all species, of all living organisms on this earth, has been patented. Someone is controlling the access to you, me and everyone else on this planet and to the knowledge that is associated with those genes, unless you want to pay for that knowledge; and, as I have been saying, in this particular case, they are controlling the ability of patients to access testing that is based on the knowledge that has been derived from research, particularly into the genes for breast cancer testing.

Health care is not just for the rich. This is a social justice issue. The government will have to shoulder the responsibility here. This could, potentially, be a very expensive exercise for all governments. I urge this government very carefully to look at the position in which it could find itself. It is not something that will go away, unfortunately. The potential problems with restrictions to access are just being seen overseas. We have not seen them here yet, but I guarantee that they are about to come. There is the need for law reform. We hope that the Australian Law Reform Commission does the right thing and is able to come up with a satisfactory plan.

What is a patent? That is something people keep asking me. Why the heck can people patent genes? A patent, initially, was for a process, a discovery or a design for a new machine or something like that. A patent was designed to give someone 15 or 20 years exclusive right to their idea, to their knowledge and to their research. How the heck that can be translated to a biological material, such as a gene, I fail to see. The Royal College of Pathologists in Australia is also perplexed by this scenario. We need to recognise that patent laws will need to be changed if medical genetic testing is to be available for all, not just for the rich.

We need to protect researchers, though, involved in genetic research, because we want to make sure that, while all patients have access to the benefits of genetic research, we encourage researchers with the wonderful research they are doing, such as that which is happening at Bionomics, BresaGen and the proteomics centre at Thebarton. We need to protect their ability to make some money from their research but not at the expense of you, me, the other people in South Australia and, in fact, the world. I hope that other members in this place examine this bill carefully and examine

the ramifications of not allowing patients to access genetic testing.

Preventive health medicine is something we should all be aiming to encourage. Fire brigade medicine, where we just go and patch up and tidy up afterwards, is something we must try to avoid. It is all about bushfire prevention as well as, in this case, preventive health care. If we can achieve testing for genetically-caused diseases, we can potentially save the state government, and Australia as a nation, billions of dollars, and I do mean billions of dollars. The numbers of diseases that will be found to be linked to genetic reasons are expanding every day. I encourage members of this house to look at this bill and to study the ramifications of genetic patenting. I commend the bill to the house.

Mrs GERAGHTY secured the adjournment of the debate.

ENVIRONMENT PROTECTION (PLASTIC SHOPPING BAGS) AMENDMENT BILL

Mr HANNA (Mitchell) obtained leave and introduced a bill for an act to amend the Environment Protection Act 1993. Read a first time.

Mr HANNA: I move:

That this bill be now read a second time.

The question of plastic bag litter in Australia is a major issue for the environment. It concerns the Greens Party and it concerns every member of this place and members in the community who care about our environment and the sustainability of it. Earlier this year, I considered that the best way forward was to introduce a bill that set a minimum price for plastic bags in supermarkets. That was an incremental approach. It was a moderate approach but, of course, it did not receive the support of the government at that time.

The outcome of that bill was inconclusive, although a government member had assured me that the passage of the bill to a vote on the second reading would be facilitated. In fact, it lapsed at the last session of parliament. I have consulted further and considered developments throughout this year in relation to plastic bags, and I have come forward with a different proposal which has an even more certain effect in respect of the mischief about which I am talking.

This bill bans retailers from giving out plastic shopping bags to their customers. It makes it an offence punishable by a fine to sell or otherwise supply a plastic shopping bag to a customer of the retailer. The bill does not distinguish between supermarkets and other retailers. It does not distinguish between large and small retailers. If we are going to get at the problem, we really need coverage that broad.

There are some exemptions. It is important to ensure that people are able to use the various alternative means, such as calico bags or shopping trolleys. I have also, in the drafting of the bill, included an exemption for plastic bags that are designed for repetitive use; for example, those sturdier plastic bags that are sold or even given away by retailers to use over and again as people do their weekly shopping. The more people can be encouraged to BYO when they go to their supermarket to do their weekly shopping, the better off we all are.

I refer to developments this year. There have been a couple of ministerial meetings this year which could have been significant and, indeed, one of the reasons the government gave for delaying a vote on my minimum price plastic bag bill earlier this year was the fact that there were discussions taking place at a ministerial level across the country. Environment ministers and corporate retailer chiefs had gathered and discussed what might be done about the plastic bag problem, which extends to nearly 7 billion plastic bags discarded in Australia each year. The outcome, I am afraid, was unsatisfactory. Although our own minister for the environment, the Hon. John Hill, has come out publicly in support of the ban on plastic bags being implemented, he has come away from these meetings with other environment ministers with nothing more than an assurance that something will be done some time. It is not definite. It is unsatisfactory, because it may never happen. The time to act is now, before the problem gets any worse, and there is absolutely no question that South Australia can go it alone. More than that, South Australia can lead the way by legislation which puts this ban into effect.

There are examples of such a ban working. There is a municipality in Tasmania which already has a ban in effect, voluntarily. I understand the City of Yankalilla also has a ban in effect, also on a voluntary basis. It is not enough for our state government minister to invite the local councils to voluntarily take on local bans on shopping bags. If the principle is right, if the minister believes that a ban is the appropriate way to go, then let's do it. This parliament should do it and do it now.

I speak briefly to the clauses of the bill. It is very simple. Clauses 1 and 3 are routine. Clause 2 states that this act will come into operation six months after the date of assent, or on an earlier date fixed by proclamation. If this bill is passed by the parliament, industry will have six months to have put in place alternative means of assisting customers to take home their goods.

Clause 4 is the key provision of the bill. It creates an offence punishable by a fine for a retailer to sell, or otherwise supply, a plastic shopping bag to a customer of the retailer. The exemptions are contained in that clause. There is an exemption for plastic bags covering goods which are not otherwise contained in any packaging; for example, raisins or nuts that are scooped out of a plastic container within a supermarket to be placed into a plastic bag and then taken to the checkout. There is an exemption for plastic bags of a class which the Environment Protection Authority is satisfied is designed to be suitable for repeated use, and has been exempted from the definition by regulation. So, with the advice of the Environment Protection Authority, the minister can put forward regulations which allow other classes of plastic bags to be used.

Finally, clause 4 makes clear that the bill has broad coverage in relation to shops and retailers: it does not distinguish between large or small. With that explanation of the clauses, I commend the bill to house.

The Hon. I.F. EVANS secured the adjournment of the debate.

INDUSTRIAL AND EMPLOYEE RELATIONS (PROHIBITION AGAINST BARGAINING SERVICES FEE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 266.)

Mr HAMILTON-SMITH (Waite): I rise to support the bill and to commend the member for Davenport for bringing it before the house, and I do so in a spirit of reform. I do so while drawing to the attention of the business community

how important it is that we do not undo the microeconomic reforms that we have achieved since 1996, when the federal Liberal government was elected, and since 1993 when the state Liberal government was elected. During those years, a lot of inefficient work practices have been undone. Compulsory unionism has been put to the side; a system of enterprise bargaining has been introduced; and there have been a range of microeconomic reforms in the industrial relations system that have enabled the economy to leap into hyper-drive.

We have just had tabled in the house today a report by Standard and Poor's which shows the good shape that the South Australian and the Australian economies are in. We find ourselves asking why it is so, and I put to the house that the reason it is so is that Liberal governments, both federal and state, have to a degree deinstitutionalised and liberalised the industrial market. In so doing, they have improved labour productivity.

Now we have moves from within the union movement—closeted and supported by the Labor Party, particularly the state Labor government—to bring about a system of compulsory industrial bargaining fees to become a burden on ordinary workers who are not members of a union. We have one prominent state union arguing for service fees, a bargaining fee, to non-union members of around $825, of which I understand about $750 is the fee, plus GST. The idea is that the 15 000 or so members of the Public Service who are not members of the union would be forced to pay this fee (these are ordinary working mums and dads) almost as a punishment for not being members of the union.

The logic is that the union argues for an improvement to the award on behalf of its constituency, the union members, but that that benefit flows on to non-union members and that, therefore, they should have to pay. In a way, the union movement wants it both ways. They do not want to be bargaining only on behalf of their own members, as proponents of an enterprise bargain per se. They want the safety of an award system and a complicated industrial relations club to sustain the intricate network of workplace and industrial relationships that we have in this country. They want an award system because it protects the long life of the union movement. But when, representing their members, they argue for a change to that award somehow they do not want that benefit to flow on to non-union movement members. They want a rigid award system, but they want to ensure non-union members cannot benefit from that system. They want it to be contained only to union members. It is a bit like having a bet each way.

Business needs to stand up and support this bill. This bill will outlaw such compulsory bargaining services fees. It is a very short bill, but the key to it is new sections 139A and 139B, which predicate that an association must not demand a bargaining services fee; and that an association (a union) must not coerce any person to pay a bargaining services fee. New section 139C predicates certain actions that an association must not take, including threats and inciting third persons to take action having, in effect, the same effect as that of a second party. The bill imposes certain penalties.

If this parliament will not support a bill which outlaws this compulsory bargaining services fee, then what does this parliament really stand for? What does this house really stand for? If we are going to take hundreds of dollars out of the pockets of ordinary working mums and dads and give it to the union movement, where the workers have received no other benefit from the union, other than the supposed benefit of changes to the award as a consequence of the union representing its constituents, then what is it that we stand for? There are some sinister goals unrevealed by the union movement in this whole endeavour that it is undertaking to bring about compulsory fees.

I bring to the house's attention the very apparent issue of political donations. I understand the Public Service Association is not a big donor to the Labor Party, but we all know the union movement is a massive political donor to the Labor Party. We know that the main source of revenue that the state Labor Party has to sustain itself comes from the union movement. Here we have an initiative championed initially by the PSA to ensure that 15 000 public servants pay $825 into the union's coffers—millions of dollars that will find its way directly to the Australian Labor Party for its own political purposes. This is nothing more than a roundabout way—

Members interjecting:

Mr HAMILTON-SMITH: Listen to them squabble; listen to them quibble and quip; look at the Labor backbench jumping up and down. They are really saddened by this—

Mrs GERAGHTY: I rise on a point of order, sir. The member for Waite has said that members on this side are jumping up and down. That is not clearly true. We are seated.

Mr Hamilton-Smith: You are up now!

Mrs GERAGHTY: Certainly I am up now because you are waffling.

The SPEAKER: Order! There is no point of order and, in any case, I did not see anyone jumping anywhere. Some people are jumping to conclusions.

Mr HAMILTON-SMITH: Thank you, Mr Speaker. Members need to support this bill to ensure that the state Labor Party does not in an underhand and clandestine way get together with the union movement to conspire to bring about a set of legislation that results in ordinary working mothers and fathers having to pay money to the union movement that will then find its way into the Australian Labor Party election campaign, without those working mums and dads having any control of that money. That is what this is about. I have mentioned that the Public Service Association is not one of those unions, as I understand it, but it is well documented that other unions are. Is this simply the spearhead of more to follow? That is what I ask the Minister for Industrial Relations. How will they raise this money? How will it be deducted from workers' pay packets? Will it be before they pay income tax or after tax? What if an employee objects to the deduction? What control will they have over the money once it is taken from their pay packet? All these questions need to be asked.

This bill, which was introduced by the member for Davenport, takes pre-emptive action to ensure that the Australian Labor Party and this government do not conspire with the union movement to fatten their coffers at the expense of ordinary working mothers and fathers. Business needs to stand up and listen. If they are not prepared to support this bill and champion the cause of industrial deregulation, then they can look forward to a series of bills from this government which will turn back the clock to 1993 and which, ultimately, will reduce labour productivity and push up the costs of doing business.

This bill needs to be supported by all members in the house. We need to increase and promote labour productivity. We need to expose Labor's deals with the union movement behind closed doors that have one objective, that is, to porkbarrel Labor's election coffers and to rip money from ordinary working families for political purposes. Business

needs to understand what they are up to, and workers need to understand what they are up to. I support the bill and commend it to the house.

Mrs GERAGHTY secured the adjournment of the debate.

PARLIAMENTARY COMMITTEES (FUNCTIONS OF ECONOMIC AND FINANCE COMMITTEE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 270.)

Mr HAMILTON-SMITH (Waite): I rise to support this excellent bill introduced by the member for Davenport. I note it has only three clauses. It is very precise. It seeks to ensure that the Economic and Finance Committee has the power to bring before it statutory authorities for the purpose of open and accountable government. I contribute to the bill on the basis of having been a member of the Economic and Finance Committee in the former parliament. That Economic and Finance Committee did bring before it statutory authorities. Members of the present Labor government had a great time ensuring openness and accountability by playing games with those statutory authorities—quite recklessly, I hasten to add—arguing fully and openly that it was necessary to do so to guarantee open and accountable government.

All of a sudden, now they are in government, out comes the double standard. All of a sudden this government has decided, one way or another, to revisit the act. It has suddenly decided that the interpretation should be enforced. It is very interesting. I would love to know whether they had this same view when in opposition but simply allowed the former Economic and Finance Committee to go ahead and bring before it statutory authorities. I am sure they did. All of a sudden they have decided it is time to close down the committee. Mr Speaker, I know you are a champion of the committee system—and always have been—and that you have a commitment to openness and accountability. Any member who has that commitment would support this bill to ensure that the Economic and Finance Committee has all the powers it requires to ensure that the people of South Australia and the media are fully informed as to what is going on in this state on behalf of the state taxpayer.

The statutory authorities are able to cause considerable financial concern to the taxpayer. They incur debts, and they have revenues. They ultimately shoot back to the taxpayer, a point that has been made time and again by the Auditor-General. The Economic and Finance Committee should have such powers. This bill ensures that it does so, and I commend the bill to the house.

The Hon. I.F. EVANS (Davenport): I thank the member for Waite for his contribution.

The SPEAKER: I point out to the house that, whilst I support the endeavours of the legislation as outlined, in the main the working part of the proposition before the house is part 2, amendment of section 6—'The function of the committee,' wherein it is proposed to delete the term 'other than a statutory authority'. If honourable members consult the principal act they will find that the act establishes a Statutory Authorities Review Committee and, under section 15C—'Functions of committee', I remind honourable members that the functions of the Statutory Authorities Review Committee are:

> (a) to inquire into, consider and report on any statutory authority referred to it under this act, including. . .
>
> (ii) the functions of the authority and the need for the authority to continue to perform those functions;
>
> (iii) the net effect of the authority and its operations on the finances of this state;

Elsewhere, the Speaker is compelled in law to avoid duplication or prevent it between the work of the two committees or any one parliamentary committee with that of another committee. In this case, I make the observation that there may be instances in which the same work is undertaken by one committee which is also being, or has also been, or may be contemplated to be undertaken by the other committee. The two committees in the question on the one hand are the committee the subject of this legislation, that is, the Economic and Finances Committee, and the other committee obviously is the Statutory Authorities Review Committee. It is a conundrum, and it may cause difficulty to future speakers. It will not for me.

Bill read a second time.

The Hon. I.F. EVANS (Davenport): I move:

That this bill be now read a third time.

Mr WILLIAMS (MacKillop): At the commencement of the third reading debate on this bill, I want to plead with the house to pass this bill as it has been presented to it. Having spent the last four years in the previous government, between 1997 and the 2001 election, serving on the Public Works Committee under your chairmanship, Mr Speaker, I gained a close sensitivity to the sort of work that the committees can and do perform for the house and for the parliament and, through that, for the taxpayers of this state.

Notwithstanding some of the comments that have just been made, it seems absurd that the Economic and Finance Committee is able to inquire into government agencies but not into statutory authorities. I understand that the Auditor-General, in discussions before the Economic and Finance Committee, was unaware that that committee lacked the power to inquire into and of statutory authorities and suggested that in his opinion these powers should, indeed, be held by the Economic and Finance Committee. I urge all members to support this measure in the form that has been presented to the house through the third reading stage and do so as quickly as possible.

Bill read a third time and passed.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: STORMWATER MANAGEMENT

Adjourned debate on motion of Ms Breuer:

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

(Continued from 15 October. Page 444).

Mr HANNA (Mitchell): I will make some brief remarks in relation to the report on stormwater prepared by the Environment, Resources and Development Committee. It is a good report, canvassing as it does the options we have for greater reuse of stormwater. Clearly, it is better to reuse stormwater run-off on our agriculture and market gardens, etc., than having that water run out to the sea, where it can do harm to the costal environment.

The committee has come up with many recommendations. As previous speakers have run through them, I will not go through them myself. There is something of a theme in relation to the recommendations regarding costs. The committee makes the point about the relatively high capital costs involved in implementing water reusage systems. I make the point that these costs are generally one-off costs and can lead to very long-term benefits.

So, whether we are talking about tanks in gardens, aquifers or the like, we are talking about infrastructure which has a very long life, and thus the reusage benefit is immense. Therefore, this matter cannot be left up to the market, or to individual growers, consumers or householders to budget for stormwater reuse infrastructure. It needs government leadership and government budgeting to assist people to put this sort of infrastructure in place. It is the only way forward to sustainability in terms of Adelaide's water supply and water needs in the future.

Clearly work is being done. The government's Waterproofing Adelaide project is worthy. With that project, as with many other projects of the current government, it is a matter of whether it is a group of people sitting around talking about the issues or whether there are actually going to be tangible outcomes. Ultimately that means outcomes requiring government expenditure to encourage people to do the right thing. It is really a matter of a tangible government commitment to greater sustainability.

It can well be argued that the way we deal with water is the most crucial environmental sustainability question in South Australia, such is our heavy reliance on the River Murray and to a much lesser extent on rainwater. The water is there for use on our gardens, our golf courses, our market gardens, and so on, and it really is time that the government committed to tangible outcomes, and that means financial incentives for those who could implement the sort of infrastructure that I am talking about.

I make particular mention of aquifer storage and recovery. The committee recommendations supported ongoing research into this issue and encouraged the public, through its recommendations, that this could be adopted on a widespread basis. Adelaide is particularly suited to having holes bored in the ground so that water can be stored in aquifers and recovered as required.

On a local note, I was involved in the very early stages of supporting a project at St Elizabeth's church at Warradale. Many years ago when I was on Marion council, I supported an application for funding assistance to allow an aquifer to be bored and used to water the car park at that church. Ultimately the Archbishop of Canterbury came out and opened the car park, which is now largely self-sufficient in terms of its water needs. That sort of project could be replicated literally thousands of times around Adelaide and the saving in terms of our drawings on the River Murray would be massive. It would make a real difference, but it does need financial incentive, and that is where the government is called upon to act.

Other steps need to be taken. Public education is an aspect. However, we have to be careful not to pour millions of dollars into marketing budgets unless we can be sure that we are really going to change people's behaviour on an everyday basis. There is a great opportunity, of course, with new homes, as well as commercial and industrial premises, to ensure that water efficiency standards are met. I am a strong supporter of rainwater tanks, as well. That is a related issue and again there is much greater scope for the government to ensure that rainwater tanks are built with new homes. Whether it is a matter of some financial assistance or making it mandatory, it needs to be seriously considered given the importance of the water issue in South Australia.

Finally, I commend the committee for its report. If it is just another report that sits on the shelf gathering dust, that will be tragic for South Australia. The Greens and I will be monitoring the implementation of those recommendations and I can only encourage the government to do the right thing in relation to the recommendations that have been made.

Dr McFETRIDGE (Morphett): I support the committee's report. I am very aware of the effects of inundation by stormwater as a result of the recent flooding at Glenelg North, as are the residents of Macfarlane and Tod streets, and the other streets that were flooded in June. That was a one in 10-year event, a very localised event. The rainfall was not terribly heavy but, because the lock gates did not open, and given the totally artificial systems we now have to drain our waterways, the floodwater that came down overflowed and backed up through the stormwater drains and flooded the homes at Glenelg North.

It is vital that the state government and councils have plans in place to manage stormwater. One of the things I am seeing a lot at Glenelg is beautiful big old homes with backyards, lawns and gardens being knocked over and stucco boxes being built in their place, 95 per cent of the earth is covered by concrete bricks. The run-off from these properties is tremendous, it goes into the gutters and then into the stormwater system and out to sea. I will talk about that issue in just a few moments.

I have had a long hard look at the history of the rain run-off in South Australia because of the recent flooding at Glenelg. I have some old military maps from 1889 that show Brownhill Creek, the River Torrens, the Sturt River and the Field River—all the rivers along the coast. Some of them flowed through a natural mouth out to sea. The Torrens River never reached the sea. The Sturt River flowed down what is now known as West Lane, which is about halfway along Adelphi Terrace, into the middle of the Patawalonga Lake as it is now. There are houses both sides of this lane, an area that was in the past just swamp, and we see that all along the coast.

The 1884 plans of the house at Glenelg that I now live in show the sand dunes at 25 feet high in the old numbers. Behind that were huge swamps. Not all the streams, rivers and creeks flowed into the sea straightaway. Most of them soaked out through swamps, and there was a huge length of swamps across what is now the metropolitan coastline. The arrival in the 1800s of white settlers, their desire to live in small communities and the development that went with those communities resulted in stormwater run-off.

Our big problem in this citicentric state of South Australia is that 1 million people live in the city of Adelaide, which is basically built on swamps. There is always the risk of flooding and serious attempts must be made to control and mitigate the damage that is caused by any significant rain event. It is not just a case of bypassing a lake like the Patawalonga with a wonderful system like the Barcoo. It is far more than that, it goes back to the aquifer storage and recovery systems that are used at the Morphettville Racecourse, at the Warriparinga Wetlands, at the Marion Driver Safety Centre, where a new wetland has been developed, and at Urrbrae. Those wetlands collect stormwater, allowing it to be naturally filtered through swamps and biological systems,

and the water can then be pumped down into natural aquifers and stored for later reuse.

I know that at Morphettville racecourse the water is being reused in the irrigation systems on the course, and that has been working exceptionally well. I understand that at the moment there is a problem with salinity in the aquifer, and they are having to create shandies of the stormwater that has been stored in the aquifer and mains water. Obviously, the cost of using stormwater is way below the cost of using mains water when it comes to irrigation.

Many megalitres of water run out to sea in a rain storm or after heavy rain—or even after some light showers, in some cases—along the coast, and it seems an absolute waste. The fact that that water now carries many toxic chemicals, from bits of rubber and car tyres right through to cartons and the flotsam and jetsam of our city and suburban streets, is something that I absolutely deplore. The brown plumes going out to sea along the coastline after a rain event are something that, living on the coast at Glenelg, I see too regularly. It emphasises to me the fact that it is not just my neighbours down the coast who need to look after what is going on: rather, it goes right back to the suburbs, the foothills, where the European trees are shedding their leaves and people are washing their cars—and, even if they use soapy water in buckets, they are still putting detergents into the system. There is also the oil on the roads. The list goes on. The items that are contributing to the contamination of this stormwater run-off are of real concern for me, and certainly should be of real concern to all members in this place and everyone in South Australia.

If the committee is able to come up with some solutions or suggestions, and perhaps even some incentives or recommendations for local government and state government bodies, it will have done its job exceptionally well. I know that members of that committee have worked hard on producing this report, and I commend them on that hard work, as well as the officers of the committee, who also have worked very hard.

This is not a problem that will go away tomorrow. It will take a lot of money, a lot of concerted effort, a lot of determination and, certainly, some leadership by the government to change people's attitudes to use and reuse of stormwater and reduction of stormwater run-off. It is not just a matter of sticking in a rainwater tank and then trying to use that on the garden or in the toilet. It will involve far more than that. It will go back to urban design—the design of our buildings and our gardens—the chemicals that we use in our gardens and on our cars, the way in which we maintain our cars and just pure littering, including the millions of cigarette butts which must be washed out to sea every year and which I find so very disturbing.

If we are able to reuse this stormwater, I think the report states that something like 25 gigalitres of water less would need to be pumped from the River Murray. That is a huge saving. I am not sure how many swimming pools that would fill, but the facts are there. The need is there and, certainly, it is an urgent need in a state such as South Australia—and we all know that Adelaide is the driest city in the driest state in the driest continent on earth. I commend the hard work of the committee and look forward to seeing some results from its hard efforts.

Motion carried.

RAILWAYS, ADELAIDE BYPASS

Adjourned debate on motion of Mr Venning:

That this house calls on the Economic and Finance Committee to examine and make recommendations on the feasibility of the proposal of Maunsell Australia Pty Ltd to construct a rail bypass east of Adelaide.

(Continued from 24 September. Page 269.)

The Hon. M.R. BUCKBY (Light): I rise in support of this motion by the member for Schubert. This idea goes back quite some time, because when I was farming at Wasleys and the Australian National Rail Authority was in place, I was aware of plans at that stage to construct an eastern rail bypass of the Adelaide Hills. The linkage was proposed to go through some of my land and join up with the Adelaide to Port Augusta railway line just south of Mallala. It was probably about 1989 or 1990, I think, when that plan was put forward. It was proposed by the federal government, through the Australian National Rail Authority and, as I said, it was viewed to be important at that time.

I am aware that the member for Schubert has been approached by a certain party with regard to this plan, and I believe that it would be a very good project to be referred to the Economic and Finance Committee. Madam Acting Speaker, you would probably be aware that, with respect to the railway line that runs through the Adelaide Hills from Melbourne, currently, double stacking of containers cannot occur with rail freight because of the restriction of tunnels and bridges that are on the track through the Adelaide Hills.

Also, of course, there is an issue of noise with respect to rail freight (trains travelling through Coromandel Valley, in particular), and an eastern rail bypass, obviously, would certainly also eliminate that. It also would mean that the Economic and Finance Committee could look at exactly what impact this project would have on Adelaide.

Some people are saying that, if we did this, Adelaide would then be completely bypassed, and may lose out. That is one area that could be examined by the Economic and Finance Committee. It would certainly also be able to look at who owns the land in the suggested corridor, and exactly where an eastern rail bypass would be located and where it would carve its way through the Hills (presumably, somewhere in the Barossa Valley, or north of it) to again link up with the main Adelaide to Port Augusta railway line. I believe the Economic and Finance Committee should look at a number of areas, one of which is how this project would be funded. Would it be undertaken by federal government money and some state government money, or is there an element of private investment money that would be available for this project?

In addition, what would be the impact on the environment of a railway line travelling through this sector: and, assuming that this railway line would pass somewhere very close to the Barossa Valley, what potential would there be for the wine industry in the Barossa Valley or other industries that are located close to this railway line? What would be the economic potential of industry using that line along the way? I believe that there may not be any potential, because most of the trains from Melbourne would be locked trains and, as a result, there would be no stopping along the line to take on extra trucks. But, anyway, that could be investigated by the committee.

However, I think the most important area to be investigated is the proposed route of this railway line; what would be

the economic benefits and costs to South Australia of an eastern rail by-pass; and where would the promoter of this particular project envisage the money coming from, be it the federal government, state government or private investment?

So, I believe this is an important issue for the committee, particularly looking at efficiencies of rail transport. If this proved to be a viable project, it would allow for the increased efficiency of double stacking of rail trucks. Of course, another area that would have to be looked at is what it would mean for the northern line in terms of additional freight movements (going back up to Port Augusta, if necessary) by creating this back flow of rail trucks to Adelaide, for instance, if there was freight to be dropped off in Adelaide. Those sorts of issues would all have to be identified by the committee for it to be able to report on the impact of both the rail traffic (the amount of movement along the line) and the impact on metropolitan rail crossings of extra traffic (and, of course, we immediately think of the Salisbury railway crossing).

So, this could well be an important review by the committee. If it is deemed to be a viable proposition, the government could then take it to the federal government to assess whether any funds would be available. As I said, it was certainly put forward in the late 1980s by the then Australian National Railways and the federal government as a potential project at that stage, so there may well still be sympathy for this project or a view that it would be a very good project to undertake, given that the federal government and the state government—and, indeed, all areas—are looking at taking freight off the road and putting it onto rail to reduce the congestion of road traffic and trucks on our roads. I commend the member for Schubert for bringing this motion forward, and I believe that this would be an excellent project for the Economic and Finance Committee to investigate.

Mrs GERAGHTY 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 15 October. Page 449.)

Mr HANNA (Mitchell): I wish to make a brief contribution in relation to the report on the Holdfast Shores development. I was never happy about the development, although it must be very pleasing for the investors to see that a quarter of a billion dollars' worth of wealth has been created for someone. I suppose the starting point is to drive down Anzac Highway and remember the view of the sea that we used to have: instead, we have the Gold Coast-style skyscrapers blocking the view. Of course, the development in that Glenelg foreshore area has not stopped and the controversy will continue. In that respect, I support residents as they continue to struggle to retain open space and public space in that area.

I was in parliament—or, at least, working in parliament—when the Holdfast Shores development was first being proposed. Of course, it was tied to the development of the West Beach boat facility because something had to be done about the loss of boating facilities in the Holdfast Shores area. Legislation was required, and I remember a lot of people in the Labor Party being extremely upset that the Labor Party representatives who went to the deadlock conference between the two houses of parliament to resolve a stumbling block came out with a deal which, in fact, allowed the development to proceed.

I remember the justification given to Labor Party MPs and other members of the party at the time: it was that we cannot be seen to be against development. That was the mantra of the Labor Party leadership at the time when in opposition, and it is certainly still the case now that it is in government. If only that commitment to economic development could be balanced with the rights of citizens to hold and enjoy community space, whether that be beach front, parks and reserves or whatever.

So, it is strange to me that this report of the Economic and Finance Committee, where the Labor government now enjoys a majority in terms of the membership, has concluded that it is really a very pleasant development, and I could not see much trace of any of the angst and dissatisfaction that Labor members, years ago, felt when this proposal was put forward with the particular patronage of the Olsen government at the time. So, times change and history has been rewritten to some extent. I do not doubt the economic benefit of putting up those apartments on the beach front: they were always going to be a financial success for whoever put them forward, especially given the amount of public money contributed to them. It is just unfortunate that people have lost public space—the enjoyment of the beach front and open space—in the Glenelg area as a consequence.

Mr CAICA (Colton): My colleague the member for Mitchell talked about the economic returns that seemingly have accrued to the people of South Australia—although I have not specifically felt the impact of that economic return. What I see is the loss of open space and areas that were once able to be enjoyed by community members, as opposed to monolithic buildings that are now enjoyed by the few who can afford to buy such apartments located within those monoliths.

I do not intend to go into the economic benefits for very long because, I think, that has been mentioned by other members. It is safe to say that the type of project there is not my style. I am not a regular visitor to the Holdfast Shores development. I have maintained my close relationship to the more open spaces one finds in the fine electorate of Colton. I would like briefly to touch on certain aspects of the project that should have been not just considered but undertaken by the proponents of the project. I heard speakers talk earlier about stormwater sustainability measures.

It remains a significant and great disappointment to me that the project did not adopt and embrace issues associated with sustainable building technology. I fear what that project will look like in 30 or 40 years' time. I also remain very disappointed that the proponents were not encouraged to adopt—or even forced into adopting—sustainable building technology aspects, such as the reuse of stormwater and grey water, the use of available light and natural heating and aspects of sustainable building technology that could have easily been so adopted; that is to say that we could have transformed that project, and it could have attained somewhat iconic status with respect to sustainable building technology in this state. However, that opportunity was lost and, because of that, I think that the people of South Australia have missed out.

I do want to focus on the Barcoo Outlet. We have heard from the member for Morphett, who is a great supporter of the Barcoo Outlet. I draw the attention of the house to the

107th report of the Public Works Committee of November 1999, which was a status report. It states:

> In the original hearing the committee was told that the key aim of the project is to return the Patawalonga Lake to a condition suitable for primary contact recreation on a reliable basis without permanently cutting the beach or adversely affecting the marine environment. Other goals are to significantly reduce the impact of the present stormwater discharge through the Patawalonga mouth on the marine ecosystems and on the recreational use of nearby beaches; to prevent the lake from becoming a source of bioavailable pollutants; and, implement tidally driven sea water circulation through the lake.

Did the key aim '. . . to significantly reduce the impact of the present storm water discharge through the Patawalonga mouth on the marine ecosystems and on the recreational use of nearby beaches' achieve that? No, it did not. What it did was remove the impact of the pollutants and the stormwater from the silvertail areas of Holdfast Shores down onto the beaches of my electorate. So, it was not successful from that perspective. Did it prevent the lake from becoming a source of bioavailable pollutants? Well, the evidence shown in the report compiled by the Economic and Finance Committee suggests that it did not. It has improved the quality of the water, but after any single rain event the lake is closed for three or four days. It was a nonsense—

The Hon. M.J. Atkinson: A rain event or rain?

Mr CAICA: A significant rain event.

The Hon. M.J. Atkinson: Is that a shower?

Mr CAICA: It is any type of rain that might occur for any small period of time that will prevent that lake being used by recreational users. I hope that clarifies the situation for the Attorney. My point is: why build the Barcoo Outlet without addressing some of the other pollutant sources that go into that lake? There are 20, 30 or 40 other outlets that affect the quality of water within that lake. It was a nonsense not to address that at that point. In terms of preventing the lake from becoming a source of bioavailable pollutants, the Barcoo Outlet has not been successful. However, there is a tick for the aim of implementing tidally driven sea water through the lake; it was able to achieve that.

The public benefits that are expected to accrue include the creation of a Patawalonga Lake as a stable marine ecosystem abundant with marine life, including recreationally prized estuarine fish species.

Dr McFetridge interjecting:

Mr CAICA: I do acknowledge the point made by the member for Morphett that, perhaps, I should have gone there to attempt to catch some fish. The only difficulty I would have had, given the state of the water on occasions, was whether or not I would be tempted to eat those fish, and the answer clearly is no. Given my earlier comments, it has not been successful in that regard, either.

Another expected public benefit is the consequent significant positive change in the environmental, social and economic value of the Patawalonga Lake and the Glenelg/West Beach region. We did talk about the economic benefits.

Again, I ask all members in the house to talk to my constituents at Colton about whether or not they have been beneficiaries of the construction of the Barcoo Outlet. The clear, unequivocal answer would be, no. Another expected benefit is the cessation of a black anaerobic discharge from the Patawalonga mouth and the attendant impact of bio-available pollutants on the marine ecology. That issue has not been addressed. It has simply shifted the problem. Another expected benefit is the cessation of beach closures as a consequence of discharges from the Patawalonga mouth. Yes, in that regard, it has been successful but, again, we are hiding the problem.

Another issue was the maintenance of free and unimpeded public access along the beach front. One has only to go down there at any time of the year and try to avoid the trucks shifting sand to maintain a level of sand on the beach. So, no, it has not done that. Another expected benefit was that there would be no change to the flood protection status of existing drainage systems. We know that it did not do that, and you only have to talk to the people living in Tod Street and other areas at Glenelg North to know that, from their perspective, the Barcoo Outlet and associated measures have not been a safeguard to protecting them from flood. The answer is no.

I might shock some members of the house, but I believe that the Barcoo Outlet should have been constructed, but it should not have been constructed when it was. Some $20 million was spent on the Barcoo Outlet. That money should have been spent in introducing and implementing measures further upstream from the Barcoo Outlet. The Barcoo Outlet should have been the last thing that was built to ensure that the 20 or 30 year rain event—when other measures that were in place were unable to cater for the capture, retention and reuse of water—was able to be directed out to sea.

That is when it should have been built. I do not even think the member for Morphett—a great advocate for the project—would disagree with those comments. The Barcoo Outlet has not been a success. It is a shame that it was constructed when it was and that it was not constructed further down the track. That $20 million could have been spent on other initiatives to solve the problem, because the Barcoo Outlet does not solve the problem.

The Hon. W.A. Matthew interjecting:

Mr CAICA: For the member for Bright's benefit, I draw his attention to the summary of the committee's 107th report, dated November 1999. I read out some of the solutions that were expected to accrue through the construction of the Barcoo Outlet. I deny—

The Hon. W.A. Matthew interjecting:

Mr CAICA: I believe that the member for Bright is in a state of denial.

The ACTING SPEAKER (Ms Rankine): He is also out of order.

Mr CAICA: Unlike others that might try to rewrite history, the facts today reveal that it has not been a success. Having said all that, this government is committed to ensuring that it puts in place processes that will remedy the problems associated with pollution flowing out through the Barcoo Outlet and other outfalls across the coastline.

Motion carried.

STATUTES AMENDMENT (ANTI-FORTIFICATION) BILL

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

Amendment No. 1—
Clause 8, page 4, line 23—
After 'has' insert:
or could have,
Amendment No. 2—
Clause 8, page 6, after line 30—
Insert:

(4) If disclosure of information included in the affidavit would be in breach of an order of the Court under section 77BB(5), an edited copy of the affidavit, from which the information that cannot be disclosed has been removed or erased, may be attached to the fortification removal order.

Consideration in committee.

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

That the Legislative Council's amendments be agreed to.

During the committee stage of the debate on the bill in this house the member for Heysen tested the provisions of the bill. I had the impression that the member for Heysen was not enthusiastic in her support for the principle of the bill, so she examined its text closely.

Mr Hanna: Time honoured method.

The Hon. M.J. ATKINSON: Yes, quite, as the member for Mitchell says she does have a good mind for detail, but does the mind soar beyond detail?

The Hon. W.A. Matthew: The member for Heysen is a very capable member.

The Hon. M.J. ATKINSON: We shall see. The member for Heysen queried whether the Police Commissioner, if he claimed that there was a need to protect an informant, should be able to suppress the affidavit in support of a fortification removal order. The member for Heysen said that it may be that some parts of the affidavit from the Police Commissioner, in support of a fortification removal order, contain information which the Police Commissioner would be pleased to share with the court and the parties but other parts of it might need to be kept confidential to protect an informant within the motorcycle gang, or some other source of useful criminal intelligence.

The member for Heysen said that the government ought to consider amending the bill to say that the Police Commissioner could submit an affidavit, only part of which was kept confidential. It did not often happen in the eight years of the Liberal government that ministers accepted useful suggestions for change to bills from the opposition. It happened to me once. The now Deputy Leader of the Opposition, when he was handling a transport bill for the Hon Diana Laidlaw, said that he would go away overnight and consider an amendment of mine and came back next day and accepted it. I thought at the time, 'Strike me pink, this is the first time it has happened.' Indeed, what the Hon K.T. Griffin used to do was look at my amendments and the member for Bright knows immediately what I am leading to. The Hon K. T. Griffin would never accept my amendments, but sometimes he would go away for a few days or weeks and then come back with them as government amendments and make no reference to their provenance.

Mr Brokenshire: He was a deep thinker.

The Hon. M.J. ATKINSON: The member for Mawson says that he was a deep thinker. So, the government thinks that there is merit in the member for Heysen's proposal, and we moved a government amendment in the other place, which was accepted by the opposition, of course, and now we must pick it up here. The other amendment arises because two motorcycle gangs, the Gypsy Jokers at Wingfield and the Finks at Thebarton, have offered the government—nay, they have offered the Premier—the keys or remote controls to their gates. That is okay if they work. We have not tested them yet.

An honourable member: Perhaps you could test it for them.

The Hon. M.J. ATKINSON: Yes, perhaps I could. I will check my superannuation and my life insurance and that I have in place someone who would make a good member for Croydon!

An honourable member interjecting:

The Hon. M.J. ATKINSON: No, I am happy to be my own executor in that respect.

An honourable member interjecting:

The Hon. M.J. ATKINSON: And very few get to be.

An honourable member interjecting:

The Hon. M.J. ATKINSON: No, I think the member for West Torrens aims to be here longer: you know, live like a dog rather than die like a lion. We have therefore amended the legislation to insert the words 'or could have'—to say that the fortifications could hinder police access if they did not have the remote controls or the keys. So, we are blocking off that particular escape route for the motorcycle gangs who are trying to preserve their fortifications. The opposition also accepted that in another place, and I am confident that they will accept the amendment here, because both amendments are meritorious.

Mr BROKENSHIRE (Mawson): I will not spend too long on this. As the Attorney General has just said, he understood that, given that these amendments were accepted by the opposition in another place, they may well be accepted by the opposition in this house, and I wish to advise the house that that is correct. However, there a couple of points that I want to put on the record in advising the house of our support for these.

First, probably some of the more profound wisdom that I have heard from the General-Attorney was his assessment of the very honourable and capable member for Heysen. And she does—

The Hon. M.J. Atkinson: I thought you were going to say West Torrens.

Mr BROKENSHIRE: The member for West Torrens is a he, not a she. The member for Heysen does have great skills when it comes to her legal mind and training, and it is fit and proper that she does—with a fine tooth comb, and almost a magnet—assess line by line most of the bills that come into to this parliament. So, I guess the Attorney-General has now realised that he will have to be far more careful in future when he puts policy development forward to parliamentary counsel, because the member for Heysen has the heart of a lion and has an intelligence that is beyond that of many others, and she will continue to pick on those particular points that, at the end of the day, will make much better legislation. Of course, her primary role here is that of a legislator, and she does that well. I therefore congratulate the member for Heysen.

The only thing I want to do here is to reinforce—and I think it is relevant to put this on the public record and wherever else we can, as opposition—that the Premier is really doing whatever he can to get a run on outlaw motorcycle gangs at every opportunity. And I want to say that—

Members interjecting:

Mr BROKENSHIRE: No, give us a chance—the Premier is pushing it. I want to put on the public record that the opposition had exactly the same policy development at the last election on anti-fortification. So, it is not one person, or the government alone, that is out there continuing to get tougher on outlaw motorcycle gangs. It is bipartisanship, because the opposition has always done whatever it can to combat illegal activities with outlaw motorcycle gangs and other crime syndicates, and we will continue to do so. On that point, I remind the house that work on outlaw motorcycle

gangs did not miraculously start on 6 March 2002, albeit that some would almost think that was the case when they read comments in the media. As the member for Bright said, he took a special reference to the APMC—

Mr Hanna interjecting:

Mr BROKENSHIRE: Back before, honourable member for Mitchell!

The Hon. M.J. Atkinson interjecting:

Mr BROKENSHIRE: Yes, they did. Then the Panzer reference came in, and that was an enormous benefit. There was also the funding of Operation Avatar. I put that on the record because, if it is fair enough for the Premier to have a run in the media on it, it is also fair enough for the opposition to also have a run and put its views forward, in a very bipartisan manner. I support the amendments.

Motion carried.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED 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, the Criminal Law (Sentencing) Act 1988, the Summary Offences Act 1953 and the Summary Procedure Act 1921; and to repeal the Kidnapping Act 1960. Read a first time.

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

That this bill be now read a second time.

The Statutes Amendment and Repeal (Aggravated Offences) Amendment Bill 2003 fulfils some important government promises on criminal penalties. In the Australian Labor Party 'Plan to Protect South Australians' this government undertook to increase penalties for non-fatal crimes against the person where the victim is aged 60 or older or has a disability or is in some other way vulnerable, and to introduce extra non-parole periods where the victim is tortured, the offence is committed in circumstances where the victim is hurt seriously or threatened with serious harm or death, the offence is committed using or threatening to use an offensive weapon or the offence is committed by a gang.

This bill carries out these policies using the approach adopted by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General in Chapter 5 (Non-fatal offences against the person) and Chapter 2 (General principles of criminal responsibility).

The Bill does four things. First, it replaces most statutory non-fatal offences against the person with a new, simpler offence of causing harm. These are the causing harm offences, including a new offence of causing harm by criminal negligence.

Secondly, the Bill builds a new penalty structure for offences of causing harm and existing non-fatal offences against the person that are already expressed in terms of causing harm. Each offence has two parts—a basic offence with a penalty the same as the existing penalty for the offence, and an aggravated offence, with a higher penalty. Except to replace inconsistent terminology or adjust minor anomalies in penalty, the bill has not changed offences that are already expressed in terms of causing harm or already include an aggravated component.

Thirdly, the bill reconstructs the offences of assault and kidnapping in a way that is consistent with the new causing harm offences and the new aggravated penalty structure.

And last, the bill includes, for convenience, an unrelated amendment to the Summary Offences Act 1953 updating the summary offence of obstructing or disturbing religious worship so that it applies to weddings and funerals, whether religious or secular. Let no-one say I do nothing for the secularists of South Australia.

Remainder of second reading explanation

Causing harm offences

MCCOC's main recommendation in its review of non-fatal offences against the person was that these offences should be based on protection from harm and on the fault with which the harm is caused, not, as now, on how they are committed.

Following the Model Criminal Code example, this Bill substitutes new generic offences of causing harm for the offences in Part 3 Division 7 of the *Criminal Law Consolidation Act 1935*.

A table identifying the offences that are proposed to become new offences of causing harm is appended to this report (see *Table 1)*.

The new offences are intentionally causing serious harm, recklessly causing serious harm, negligently causing serious harm, intentionally causing harm, and recklessly causing harm.

A person causes harm if his or her conduct is the sole cause of harm to another or substantially contributes to it. Serious harm may be caused by multiple acts of harm occurring in the course of the same incident or in a single course of conduct, even though the harm caused by any one of those acts may not in itself be serious.

To ensure the new harm offences cover the same conduct that is proscribed by existing offences, the concepts of harm, consent, recklessness and criminal negligence have been defined with great care and in ways that correspond with the national Model Criminal Code and with case law.

The Bill makes consequential amendments to other Acts that refer to sections that have been amended or repealed by this Bill. These amendments are to section 20A(b)(ii) of *Criminal Law (Sentencing) Act 1988* sections 4 and 5(3) of the *Summary Procedure Act 1921*.

Harm

Harm includes physical and mental harm, whether temporary or permanent.

Physical Harm

Physical harm includes, but is not limited to, unconsciousness, pain, disfigurement and infection with a disease. This codification of the nature of harm is without controversy, except as it includes infection with a disease. At common law there was dispute about the point. The leading case (*Clarence* (1888) 22 QBD 23) was decided on the basis of consent rather than whether or not disease can constitute harm. In including disease, South Australia is following not only the recommendations of MCCOC but also legislative precedent in New South Wales (*Crimes (Injuries) Amendment Act 1990*), Western Australia (*Criminal Law Amendment Act (No 2) 1992*) and Victoria *(Crimes (HIV) Act, 1993*).

Serious Harm

Serious harm is harm (physical or mental) that endangers or is likely to endanger a person's life or that consists of or is likely to result in loss of a part of the body or a physical or mental function, or serious and protracted impairment of a part of the body or a physical or mental function, or harm that consists of, or is likely to result in, serious disfigurement. At common law and by current and antiquated statute law, this is known as "grievous bodily harm". The concept of "grievous bodily harm" has proved elusive at common law. There are inconsistent decisions on it. The best the common law could do was to require the judge to direct the jury that grievous bodily harm was "really" serious harm. That does not help much. It is a colloquial expression of emphasis designed to concentrate the attention of the jury. The adjective is not necessary in this Bill. This Bill defines serious harm in a technical, not colloquial, way. That definition is based on the recommendations of MCCOC, who considered and refined similar definitions adopted by the US Model Penal Code and the Irish Law Commission.

Mental Harm

Mental harm means psychological harm but does not include ordinary emotional reactions like grief or distress unless they result in psychological harm. The extension of traditional bodily harm and grievous bodily harm to non-physical harms is not without its critics. Nevertheless, the common law has accepted that, in the right case, grievous bodily harm extends to non-bodily harm (Ireland; *Burstow* [1997] 4 All ER 225), and therefore to preclude such a case would be to narrow existing law against the interests of victims. In addition, it is not hard to imagine a case, or many cases, in which the

deliberate or intentional causing of mental harm to a victim can and should be criminal. The provision in the Bill reflects, so far as is possible, existing law.

However, this point cannot and should not be carried too far. The ordinary disappointments of life should not be elevated into criminal offences. The examples in the Bill are intended to give a clear guide as to the intention of the Bill—that is, that it takes some mental harm quite out of the ordinary to translate even unusual emotions into criminal questions. Such cases will not be ordinary. It may be that the victim has a pre-existing condition (such as medically diagnosed severe depression) which is exacerbated by the act of another. That in itself should not suffice. The Bill has been carefully drafted to draw a difficult, fine but discernible line. Therefore the Bill makes conduct that causes mental harm alone an offence if the mental harm was a consequence of danger to the victim's life or physical safety brought about by that conduct, or because the primary purpose in engaging in that conduct was to cause harm. Without such limits, it might be possible to commit the offence of causing mental harm by doing something that is not in itself criminal or doing something that had another overriding and legitimate purpose.

Conduct

The new offences do not apply to conduct that is within the limits generally accepted in the community as normal incidents of social interaction or community life, unless the defendant intended to cause harm. It should not, for example, be criminal behaviour to slap someone on the back at a social gathering unless that action causes harm and was intended to cause harm. The Bill is careful to refer to "*the* community" not any part of the community. So, it is not to the point that it might be said that in this particular nominated community (whatever it might be), roughness in conduct or speech is more usual. The provision is intended to codify the common law principle—and that principle refers to the community generally—the South Australian public.

Consent

A person may of course lawfully consent to harm. We do this when we consent to medical or dental surgery, or when we donate blood or body organs, or when we play sport that carries an inherent risk of harm.

But there are limits to the harm society will allow its members to consent to. The Bill says that a person may consent to harm if the nature of the harm and the purpose for which it is inflicted fall within limits that are generally accepted in the community. It is up to the jury to decide this.

Fault

In the words of MCCOC, in Chapter 5 of the Model Criminal Code *Report into non-fatal offences against the person*,

> Of all the criteria of guilt, the most fundamental in our criminal law is the fault with which the harm is done. It underlies most of the important and difficult central concepts of the criminal law—and is fundamental to the community's understanding of guilt and punishment. As Oliver Wendell Holmes remarked, even a child understands the difference by the instinctive plea—but I didn't mean to.

The structure of the Model Criminal Code, and of this Bill, makes it plain that a person who causes harm or serious harm intending to do so is more culpable than someone who causes the same degree of harm recklessly, and that a person who causes serious harm by criminal negligence is as culpable as someone who recklessly causes harm that is not serious.

The offence of causing serious harm by criminal negligence is included for various reasons. The most important is to fill a gap that may be left by an offence structure that is based on the result of conduct and criminal fault if courts continue, in the words of MCCOC, to

> decline to attribute subjective fault to result elements of [causing harm] offences.

The Bill follows MCCOC in confining offences of criminal negligence to those that cause serious harm. It distinguishes criminal negligence from recklessness and defines each in a way that corresponds with judicial interpretation of these concepts in existing offences like criminal negligence manslaughter.

Common law defences

It is important to note that the Bill does not seek to codify the law on non-fatal offences against the person, in the sense that defences that exist at common law will continue to exist (for example, the defence of lawful correction).

Consequential changes to terminology for some other offences

The Bill makes consequential changes to offences already described in terms of causing harm by substituting the words 'harm' and 'serious harm' for 'bodily harm' and 'grievous bodily harm'. One such offence is that of causing bodily harm or grievous bodily harm by dangerous or reckless driving in s19A of the *Criminal Law Consolidation Act 1935*. This offence is also one of the few offences where the penalties have been changed to correspond with the penalty scale for the new causing harm offences.

Penalties

The maximum penalties prescribed for the new causing harm offences, also modelled on the MCCOC version, generally correspond with the penalties for the offences that they subsume.

The maximum penalties of imprisonment for causing harm offences are these:

Serious harm

- 20 years for a basic offence and 25 years for an aggravated offence of intentionally causing serious harm;
- 15 years for a basic offence and 19 years for an aggravated offence of recklessly causing serious harm;
- five years for causing serious harm by criminal negligence

Harm

- 10 years for a basic offence and 13 years for an aggravated offence of intentionally causing harm;
- five years for a basic offence and seven years for an aggravated offence of recklessly causing harm.

Most of the new penalties correspond with existing penalties for the offences that have been reconstructed as causing harm offences. Where the reconstruction resulted in an inconsistency, the penalties have been adjusted.

For example, the maximum penalties for causing harm by reckless driving in a motor vehicle have been increased from four years to five years imprisonment for a first offence and from six years to seven years imprisonment for a subsequent offence, and the maximum penalty for reckless driving of a vehicle other than a motor vehicle (for example a bicycle) increased from two to five years imprisonment so that they equate with the penalties for the new offences of intentionally or recklessly causing harm.

The Bill resolves some penalty anomalies revealed by this revision.

For example, it rationalises the penalties for the more serious offences of unlawful sexual intercourse and indecent assault in this way:

- For unlawful sexual intercourse with a person of above the age of 12 years and under the age of 17 years, or between a guardian or a teacher with a person under 18 years old, or with an intellectually disabled person the maximum penalty has been increased from seven years to 10 years imprisonment. (The maximum penalty for sexual intercourse with a person under the age of 12 years remains life imprisonment.). In this way penalties for unlawful sexual intercourse with these categories of victim are greater than the penalties for the less serious offences of indecent assault of those victims.
- The offence of indecent assault has been restructured into a basic offence, retaining the maximum penalty of eight years, and an aggravated offence of indecent assault against a person under the age of 12 years, retaining the maximum penalty of 10 years imprisonment.

Extra penalty for heinous crimes

There is a special provision in the Bill to allow greater punishment for criminals who intentionally cause serious harm to their victims, and that harm is so serious that even the maximum aggravated penalty seems too low.

The Bill allows the court, on the application of the Director of Public Prosecutions, to impose a greater effective penalty than the maximum prescribed for an offence of intentionally causing serious harm if the serious harm suffered by the victim is so great that the court considers it warrants this greater penalty. There is no limit on the maximum to the greater penalty.

Alternative verdicts

The Bill allows alternative verdicts of lesser causing harm offences.

If a charge of a causing harm offence is not made out, and the judge considers it reasonably open to the jury on the evidence to find the defendant guilty of one or more specified lesser offences, he or she may instruct the jury to this effect. If it is satisfied that the lesser offence or offences have been established beyond reasonable doubt, the jury may return a verdict of not guilty of the offence charged but guilty of one or more of these specified lesser offences. It follows

that the trial judge is only required to put to the jury alternative verdicts that are either explicitly charged or are included offences that are reasonably open on the evidence.

Assault

Assault is an offence that does not necessarily depend on proof that harm was caused. The current law creates separate offences for assaults that require proof of harm (for example, assault occasioning actual bodily harm).

The Bill replaces existing assault provisions that require proof of harm with the new causing harm offences, and reconstructs the offence of common assault.

The new offence of assault reflects the case law on what constitutes assault. It retains existing penalties for the basic offence and includes an aggravated penalty provision.

The list of aggravating circumstances that apply to the new offence of assault include those that would have aggravated the repealed offences (namely that the assault was committed on a family member, or on a person acting in the discharge of official duties, or on a police officer or prison officer acting in the course of his or her official duty, or on someone who is particularly vulnerable because of the nature of his or her employment or occupation, or was committed using an offensive weapon).

Aggravated offences

In its *Report into non-fatal offences against the person*, MCCOC recognised

> that there are some specific instances in which society, at any given time, pays particular attention to how or *the way* in which harm is caused.

MCCOC thought that offences in which harm is caused in a particularly objectionable way or circumstances deserve separate treatment. It thought the best way to achieve this was to reconstruct the penalty provisions of existing relevant offences and link them to a single list of aggravating factors, within a penalty structure that differentiates aggravated and basic offences.

The Bill adopts this approach. It amends the *Criminal Law Consolidation Act 1935* to list the circumstances that make an offence an aggravated offence, to redefine the penalty provisions for each relevant offence in terms of a basic and an aggravated offence, and to apply the existing maximum penalty to a basic offence and a greater maximum penalty to an aggravated offence.

An example may help explain how this works. A man is caught trespassing in a home when the owner is present. In his bag is a shotgun. Under the present law, he would be charged with criminal trespass in a place of residence. Even taking into account the fact that he was carrying a gun, his penalty could not exceed three years imprisonment. Under this Bill, the charge and the sentence would be different. The man would be charged with the new aggravated offence of criminal trespass in a place of residence. If the jury is satisfied that all the elements of the offence of criminal trespass in a place of residence *and* the aggravating circumstance of having an offensive weapon with him when committing the offence are established, it will find the man guilty of the aggravated offence. The judge must then sentence within the higher maximum penalty that applies to the aggravated offence (five years imprisonment) instead of the three year maximum that applies to the basic offence.

The new penalty structure will apply in a limited way to young offenders. Under the *Young Offenders Act 1993* young offenders may be sentenced to no more than three years of detention. The period of detention cannot be longer than the maximum period of imprisonment prescribed as the penalty for the offence if committed by an adult. The Bill will allow a court to sentence a young offender who commits an offence in aggravated circumstances to a period of detention equivalent to the maximum term of imprisonment prescribed for the aggravated form of an offence, as long as the period of detention is no longer than three years.

The list of aggravating circumstances in the Bill generalises existing factors of aggravation and includes those mentioned in the Government's election platform as meriting extensions of non-parole periods in home invasion offences. They apply to all relevant offences, not just home invasion.

In summary, the new aggravating circumstances are:

- using torture (this accords with Australia's international obligations to take steps against torture);
- having an offensive weapon;
- knowing the victim to be acting in the capacity of a police officer, a prison officer of other law enforcement officer, or committing the offence in retribution for something done by the victim in this capacity;
- trying to deter or prevent someone taking or taking part in legal proceedings or in retaliation for their doing so;
- knowing the victim to be under the age of 12 years;
- knowing the victim to be over the age of 60 years;
- the victim being a family member;
- committing the offence in company with another person or persons;
- abusing a position of authority or trust;
- knowing the victim to be in a position of particular vulnerability because of physical or mental disability;
- knowing the victim to be in a position of particular vulnerability at the time of the offence because of the nature of his or her occupation or employment. For example, it might aggravate an assault that the victim was known to the offender to be a petrol station attendant on lone night duty or a locum doctor attending a household at night;
- the victim being, at the time of the offence, engaged in a prescribed occupation or employment, and the offender knowing this and the nature of that prescribed occupation or employment. An example of an occupation or employment that might be prescribed is that of a sheriff's officer, who is responsible by law for the maintenance of security and orderly conduct in the courts and the execution of civil and criminal process.
- acting in breach of an injunction or court order relevant to the offending conduct.

This last factor accords with the Government's undertaking to provide stronger measures for non-compliance with domestic violence restraint orders.

The aggravating factors have been drafted so that knowledge of the essential ingredients is express or implied.

The Bill requires the aggravating circumstances to be stated in the summons or information, so that the defendant and the court know precisely what is being alleged. If more than one aggravating factor is alleged for the one offence, a jury finding a person guilty of that offence must say which of those aggravating factors it found to be established, so that the true basis of the verdict is known.

The offences to which these aggravating factors apply are offences of making unlawful threats, unlawful stalking, assault, acts endangering life or creating a risk of harm or serious harm, kidnapping, indecent assault, abduction of male or female persons, procuring sexual intercourse, robbery, deception, dishonest dealings with documents, serious criminal trespass (non-residential buildings), serious criminal trespass (places of residence), criminal trespass (places of residence), and the new causing harm offences, to which I now turn. They do not apply to offences where the maximum sentence is already life imprisonment. I refer Members to the tables appended to this report, and, in particular, *Table 2*, which lists the proposed factors of aggravation, and *Table 3*, which lists the offences to which the aggravating factors apply and compares the proposed penalties with existing penalties.

Kidnapping

The *Kidnapping Act 1960* contains two offences—kidnapping and demanding money or making threat—both of which carry a maximum penalty of life imprisonment. The language and offence structure in the Act are antiquated.

The Bill repeals the *Kidnapping Act 1960* and creates a new kidnapping offence in the *Criminal Law Consolidation Act 1935* so that the new aggravated penalty provisions also apply to kidnapping.

The new offence has two components.

The first is taking or detaining another person without that person's consent with the intention of holding him or her to ransom or as a hostage or of committing an indictable offence against that person or a third person. It will not be considered consent if the person apparently giving it is a child or someone who is mentally incapable of understanding the significance of the consent. Consent obtained by duress or deception is also to be ignored.

The second component of the offence is wrongfully taking or sending a child out of the jurisdiction. The act is wrongful if done in the knowledge that someone who has lawful custody of the child (for example another parent) does not consent to it and there is no law or court order allowing it. The maximum penalties are 20 years imprisonment for a basic offence and 25 years for an aggravated offence.

These offences are based on the MCCOC model offence of kidnapping. The relativity between basic and aggravated penalties

is equivalent to the MCCOC model, but the maximum penalties themselves are some five years greater.

Obstructing or disturbing religious services

The Bill amends the *Summary Offences Act 1953* by repealing the summary offence of interruption or disturbance of religious worship (in section 7A) and replacing it with a new offence of obstructing or disturbing religious services and certain other ceremonies.

The new offence carries the same penalty as the one it replaces: a maximum fine of $10 000 or a maximum term of imprisonment of two years. The new offence is constructed more simply and includes a definition of religion and religious service. It extends the offence to weddings and funerals, whether religious or secular.

Table of changes made to offences by this Bill

For the information of Members I attach to this speech three tables:

- Table 1: Offences proposed to become new offences of causing harm;
- Table 2: Proposed factors of aggravation; and
- Table 3: Offences proposed to contain an aggravated penalty.

In conclusion

In this legislation, Parliament is showing the judges how seriously it views criminal conduct and what level of penalty should be considered for particular kinds of behaviour. In rationalising penalties, some penalties have increased and others, necessarily, have decreased. By focussing on criminal fault, the Bill removes some irrational distinctions in our offences against the person.

Table 1: OFFENCES PROPOSED TO BECOME NEW OFFENCES OF CAUSING HARM[1]

	New max penalty		Existing max penalty	
Offences	**Basic**	**Aggravated**	**Basic**	**Aggravated**
Causing serious harm with intent				
21 Wounding with intent to do grievous bodily harm (if serious harm caused)[2]	20 years	25 years	Life imprisonment	
40 Assaults occasioning harm (if serious harm caused intentionally)[3]	20 years	25 years	5 years*	8 years
42 During an assault, wounding a magistrate preserving a wreck (if serious harm caused intentionally)[4]	20 years	25 years	7 years	
Causing serious harm recklessly				
23 Malicious wounding (if serious harm caused recklessly)[5]	15 years	19 years	5 years*	8 years
24 Unlawful wounding (if serious harm caused recklessly)[6]	15 years	19 years	5 years*	8 years
42 During an assault, wounding a magistrate preserving a wreck (if serious harm caused recklessly)	15 years	19 years	7 years	
Causing harm intentionally				
21 Wounding with intent to do grievous bodily harm (if harm caused)	10 years	13 years	Life imprisonment	
40 Assaults occasioning harm (if harm caused intentionally)	10 years	13 years	5 years*	8 years
42 During an assault, wounding a magistrate preserving a wreck (if harm caused intentionally)	10 years	13 years	7 years	
Causing harm recklessly				
23 Malicious wounding (if harm caused recklessly)	5 years*	7 years	5 years*	8 years
24 Unlawful wounding (if harm caused recklessly)	5 years*	7 years	5 years*	8 years
42 During an assault, wounding a magistrate preserving a wreck (if harm caused recklessly)	5 years*	7 years	7 years	
Causing serious harm by criminal negligence				
24 Unlawful wounding (if serious harm caused negligently)	5 years*		5 years*	8 years

[1]This table does not include offences of causing harm that remain in the statute and have not been subsumed by the new causing harm offences. An example is the offence of death and injury arising from reckless driving etc. (s19A). That offence is already structured in terms of causing harm.

[2]The most serious form of this offence. Where the harm is not serious, it will be an offence of causing harm intentionally.

[3]The most serious form of this offence. Where the harm is not serious, it will be an offence of causing harm intentionally.

*Minor indictable offence. Offences not marked like this are major indictable offences.

[4]The most serious form of this offence. It may also be an offence of causing serious harm recklessly or, where the harm is not serious, an offence of causing harm intentionally or an offence of causing harm recklessly.

[5]The most serious form of this offence. Where the harm is not serious, it will be an offence of causing harm recklessly.

[6]The most serious form of this offence. Where the harm is serious but there was no relevant intent, the offence will b e causing serious harm by criminal negligence. Where the harm is not serious, it will be an offence of causing harm recklessly.

TABLE 2: PROPOSED FACTORS OF AGGRAVATION	
New section	**Aggravating factors**
5AA	The factors that make an offence aggravated are: · committing the offence while using torture; · having an offensive weapon in one's possession while committing the offence; · committing an offence against a police officer, a prison officer of other law enforcement officer, knowing that the victim is acting in the courts of his or her official duties and in retribution for something done by victim in this capacity; · trying to deter or prevent the victim taking or taking part in legal proceedings or in retaliation for their doing so; · knowing the victim to be under age of 12 yrs; · knowing the victim to be over age of 60 yrs; · knowing the victim to be family member; · committing the offence in company with another person or persons; · abusing a position of authority or trust; · knowing the victim to be, at the time of the offence, in a position of particular vulnerability because of physical or mental disability; · knowing the victim to be, at the time of the offence, in a position of particular vulnerability because of the nature of his or her occupation or employment; · knowing the victim to be, at the time of the offence, engaged in a prescribed occupation or employment and committing the offence knowing the victim was so engaged and knowing the nature of that occupation or employment; and · acting in breach of injunction or court order relevant to offending conduct.

Table 3: OFFENCES PROPOSED TO CONTAIN AN AGGRAVATED PENALTY

Offences	**New max penalty**		**Existing max penalty**	
	Basic	**Aggravated**[7]	**Basic**	**Aggravated**
19(1) Unlawful threats/without lawful excuse, threatens to kill or endanger life and arouses fear etc	10 years	12 years	10 years	12 years[8]
19(2) Unlawful threats/without lawful excuse, threatens to cause harm to person or property and arouses fear etc	5 years	7 years	5 years	
19AA Unlawful stalking	3 years	5 years	3 years	5 years[9]
20 Assault	2 years	3 yrs, 4 yrs[10]	2 years	3 yrs[11], 4 yrs[12]
23(1) Causing serious harm with intent	20 years	25 years	See Table 1	
23(2) Causing serious harm recklessly	15 years	19 years	See Table 1	
24(1) Causing harm intentionally	10 years	13 years	See Table 1	
24(2) Causing harm recklessly	5 years	7 years	See Table 1	
29(1) Acts endangering life	15 years	18 years	15 years	
29(2) Acts creating risk of grievous bodily harm	10 years	12 years	10 years	
29(3) Acts creating risk of bodily harm	5 years	7 years	5 years	
39 Kidnapping	20 years	25 years	Life	
49 Unlawful sexual intercourse	10 years	Life	7 years	Life[13]
56 Indecent assault	8 years	10 years	8 years	10 years[14]
59 Abduction of male or female person	14 years	18 years	14 years	
64 Procuring sexual intercourse	7 years	10 years	7 years	
137 Robbery	15 years	Life	15 years	
139 Deception	10 years	15 years	10 years	
140 Dishonest dealings with docs/dishonestly engaging in conduct	10 years	15 years	10 years	
169 Serious criminal trespass (non-residential buildings)	10 years	20 years	10 years	20 years[15]
170 Serious criminal trespass (places of residence)	15 years	Life	15 years	Life[16]
170A Criminal trespass (places of residence)	3 years	5 years	3 years	

[7]The 12 factors that make a new penalty aggravated are set out in Table 2. Except for the offences of serious criminal trespass, existing penalties become aggravated by the presence of one factor only. This means that although a new aggravated penalty may look the same as the existing one, it will apply to a much greater range of behaviours than the existing aggravated penalty.
[8]Only applies where victim under years.
[9]Only applies where offender carrying offensive weapon or in breach of injunction.
[10]3 years for an offence aggravated by any of the 12 factors listed in Table 2, and 4 years for an offence aggravated by the offender having an offensive weapon and using it to threaten the victim or commit the offence.
[11]Only applies where the victim is a family member.
[12]Only applies where offender uses a firearm.
[13]Only applies where victim under 12 years.
[14]Only applies where victim under 12 years.
[15]Only applies where offender has offensive weapon or commits offence in company.
[16]Only applies where offender has offensive weapon, or is recklessly indifferent to whether someone is in the residence, or commits the offence in company.

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—Amendment of section 5—Interpretation

Definitions of ***aggravated offence*** and ***basic offence*** are proposed to be inserted.

5—Insertion of section 5AA

New section 5AA provides for the circumstances under which an offence becomes an aggravated offence.

6—Amendment of section 19—Unlawful threats

The amendment provides that the maximum penalty for a basic offence of making an unlawful threat to kill or endanger the life of another is imprisonment for 10 years and, for an aggravated offence, imprisonment for 12 years. In respect of the offence of making an unlawful threat to cause harm to the person or property of another, the maximum penalty for the basic offence is imprisonment for 5 years and, for the aggravated offence, imprisonment for 7 years.

7—Amendment of section 19AA—Unlawful stalking

The amendment provides that the penalty for the basic offence of unlawful stalking is imprisonment for 3 years and, for the aggravated offence, imprisonment for 5 years.

8—Amendment of section 19A—Death and injury arising from reckless driving etc

A number of the amendments to this section are proposed to achieve consistency between similar offences in relation to the use of terms and penalties. For example, the term "grievous bodily harm" will no longer be used but, instead, will be described as "serious harm".

9—Substitution of heading to Part 3 Division 7

10—Substitution of sections 20 to 27

The amendments proposed by clauses 9 and 10 go together. The new heading to Division 7 is to be "Assault" .New section 20 (Assault) sets out what constitutes the offence of assaulting another person. The penalty for the basic offence of assault is imprisonment for 2 years and, for the aggravated offence, imprisonment for 3 years. However, there is a further aggravating factor included for this offence—if the assault is carried out by means of using an offensive weapon. In that case, the penalty is imprisonment for 4 years.

Preceding new section 21 is to be the divisional heading "Causing physical or mental harm". New section 21 (Harm) contains definitions for the purposes of the Division, including definitions of ***harm*** and ***serious harm***.

New section 22 describes conduct that falls outside the ambit of new Division 7A—that is, conduct that might cause harm but that is not to constitute a crime (for example, most medical procedures or taking part in the normal rough and tumble of body contact sports).

New section 23 (Causing serious harm) provides for a range of offences that lead to a person suffering serious harm. The penalty for the basic offence of intentionally causing serious harm to another is imprisonment for 20 years and, for an aggravated offence, imprisonment for 25 years. If, however, the victim in a particular case suffers such serious harm that a penalty exceeding the maximum prescribed in subsection (1) is warranted, the court may, on application by the Director of Public Prosecutions, impose a penalty exceeding the prescribed maximum. A person who causes serious harm to another, and is reckless in doing so, is guilty of an offence, with the penalty for the basic offence set at imprisonment for 15 years and, for the aggravated offence, imprisonment for 19 years. A person who causes serious harm to another, and is criminally negligent in doing so, is guilty of an offence, carrying a penalty of imprisonment for 5 years.

New section 24 (Causing harm) provides that a person who intentionally causes harm to another is guilty of an offence; the penalty for the basic offence is imprisonment for 10 years and, for the aggravated offence, 13 years. The penalties for recklessly causing harm to another is 5 years imprisonment for the basic offence and 7 years for the aggravated offence.

New section 25 (Alternative verdicts) allows for judges to give juries directions in relation to alternative verdicts in relation to offences against new Division 7A.

11—Amendment of section 29—Acts endangering life or creating risk of serious harm

These amendments provide for different penalties in relation to the basic and aggravated offences of unlawfully endangering the life of another or causing serious harm. Other amendments are consequential.

12—Amendment of section 31—Possession of object with intent to kill or cause serious harm

These amendments are consequential.

13—Substitution of Part 3 Division 9

New Division 9 deals with kidnapping. A person who kidnaps another will, in the case of the basic offence, be liable to imprisonment for 20 years and, in the case of the aggravated offence, be liable to imprisonment for 25 years.

14—Repeal of Part 3 Division 10

Division 10 is otiose as a result of the introduction of the insertion of new section 5AA and the interaction with the proposed amendments to section 19 (see clause 6).

15—Amendment of section 49—Unlawful sexual intercourse

The maximum penalty for an offence against subsections (3), (5) and (6) is to be increased from 7 years to 10 years.

16—Substitution of section 56

This section has been reworded so as to take account of the fact that if the victim of the offence of indecent assault is under the age of 12 years at the time of the offence, the offence is an aggravated offence.

17—Amendment of section 59—Abduction of male or female person

18—Amendment of section 64—Procuring sexual intercourse

19—Amendment of section 137—Robbery

20—Amendment of section 139—Deception

21—Amendment of section 140—Dishonest dealings with documents

22—Amendment of section 169—Serious criminal trespass—non-residential buildings

These amendments provide for different penalties to apply depending on whether the relevant offence is a basic offence or an aggravated offence.

23—Amendment of section 170—Serious criminal trespass—places of residence

The amendments provide that the maximum penalty for the basic offence against section 170 is imprisonment for 15 years, but life imprisonment for the aggravated offence. New subsection (2) provides that a person who commits a serious criminal trespass in a place of residence is guilty of an aggravated offence if—

(a) any of the factors that generally give rise to aggravation of an offence are applicable; or

(b) another person is lawfully present in the place of residence when the offence is committed and the offender knows of the other's presence or is reckless about whether anyone is in the place.

24—Amendment of section 170A—Criminal trespass—places of residence

This amendment provides for different penalties to apply depending on whether the offence is a basic offence or an aggravated offence.

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

25—Amendment of section 20A—Interpretation

The definition of ***serious offence*** is to be amended as a consequence of the changes proposed to the *Criminal Law Consolidation Act 1935*.

Part 4—Repeal of *Kidnapping Act 1960*

26—Repeal

The *Kidnapping Act 1960* is to be repealed consequential on the passage of clause 13 of the Bill (see above).

Part 5—Amendment of *Summary Offences Act 1953*

27—Substitution of section 7A

New section 7A provides that a person who intentionally obstructs or disturbs a religious service, wedding or funeral , or persons proceeding to or from such a service in a way calculated to give offence and somehow related to their attendance at the service, is guilty of an offence. The penalty for such an offence is $10 000 or imprisonment for 2 years.

Part 6—Amendment of *Summary Procedure Act 1921*

28—Amendment of section 4—Interpretation

The amendment proposed to the definition of ***offence of violence***is consequential on the amendments proposed in the Bill to the *Criminal Law Consolidation Act 1935* and the use of the

term "serious harm" (to be defined in that Act) instead of the term "serious injury".

29—Amendment of section 5—Classification of offences

This amendment is also consequential on the amendments proposed in the Bill to the *Criminal Law Consolidation Act 1935*.

Mr BROKENSHIRE secured the adjournment of the debate.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Legal Practitioners Act 1981. Read a first time.

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

That this bill be now read a second time.

The bill makes sundry amendments to the Legal Practitioners Act 1981. The bill amends the act to remove restrictions on competition as recommended by the review panel that conducted the national competition policy review of the act and makes other amendments that have been requested by the legal profession and the judiciary. In addition, the bill makes minor amendments to update the act and makes it consistent with other contemporary legislation. I seek leave to have the balance of the second reading explanation inserted into *Hansard* without my reading it.

Leave granted.

The Standing Committee of Attorneys-General is currently undertaking a project to introduce a model law for the regulation of Australia's legal profession. The Government has yet to consider the model law. The proposed amendments are not related to the model laws project they are necessary short-term changes to the Act to increase competition within the legal services market and to improve the operation of the current legislative scheme.

In October, 2000 the Review Panel conducting the National Competition Policy review of the Act released its final report to the South Australian Government. The review canvassed a range of competition matters, including the scope of the reservation of legal work, restrictions on the ownership of legal practices, requirement to insure through a statutory scheme, and other matters. The review found that there where features of the South Australian market that contributed to healthy competition, including for example, freedom to advertise, direct competition with conveyancers and the availability of contingency fee arrangements. The review did not identify the need for major reform of the legislation.

Competition policy requires that any restriction to competition that is more than trivial should be removed, unless it delivers a public benefit that cannot be delivered in a less restrictive manner. On this ground, the report recommend the removal of the restriction on land agents drafting leases above a prescribed rental value and the requirement that a person must be an Australian resident to be admitted as a legal practitioner.

To comply with South Australia's competition policy obligations, the Bill removes these restrictions to competition from the Act. Clause 6 of the Bill removes subsection 15(1)(b) thereby removing the requirement that person must be an Australian resident to be admitted as a legal practitioner. Clause 8 amends subsection 21(3)(n)(i) and (ii) to permit land agents to draft leases above the rental values of $25 000 for residential and $10 000 for non-residential, provided they carry approved professional indemnity insurance.

To increase competition within the market, the Bill also amends the practice protection provision of the Act to allow trustee companies to charge for the preparation of wills. Presently, under subsection 21(3)(s) of the Act, trustee companies may prepare wills without using a lawyer only if they are appointed as the executor and they gain no fee or reward for drafting the will. Trustee companies therefore draft wills for the public on a so-called free basis with the cost of the drafting commonly recouped out of the commission gained by the company from the estate when subsequently acting as the executor.

The Bill amends subsection 21(3)(s) to allow trustee companies to charge for the preparation of wills provided that if the trustee company is appointed as the executor under the will it must disclose the costs that may become payable in consequence of that appointment to the person on whose instructions the will is being prepared. Consumers are therefore informed of the executor fees that will be paid out of their estate. It is then the informed consumers choice as to whether they wish to appoint the trustee company as their executor under the will.

The Law Society of South Australia has moved to insuring practitioners on a financial year basis. Section 18 of the Act, however, provides that practising certificates are issued every calendar year by the Supreme Court, through its delegate the Law Society. To have consistency between the terms of the practising certificates and the insurance scheme, the Law Society wants practising certificates to be issued on a financial year basis. To achieve this outcome the Law Society has asked that the Act be amended to allow the Supreme Court to issue certificates for six months from January, 2004 to June, 2004.

Clause 7 of the Bill amends section 18 of the Act to allow the Supreme Court, and thereby the Law Society, to issue certificates for any period less than 12 months. The new provision will allow the Supreme Court to issue certificates for the six months from January, 2004 to June, 2004. Practitioners could then enter into the professional indemnity insurance scheme and be issued a practising certificate, at the same time, for the financial year 2004 to 2005.

Legal practitioners are required to audit their trust accounts each year and provide a copy of the auditor's report to the Supreme Court by 31 October. Currently by the operation of sections 18(3) and 33 of the Act, if practitioners fail to submit the auditor's report on their trust accounts by the 31 October, in addition to a $10 000 fine, they will not be issued a renewal of the practising certificate next January. This ensures that practitioners who do not comply with trust accounting requirements are not allowed to continue to practise.

Once the Law Society switches over to issuing certificates every financial year, the period between when the audit reports are due to be submitted in October and the renewal of the certificate will be increased from two to eight months. Therefore, to maintain the effectiveness of this discipline, the Bill includes a consequential amendment to section 33 of the Act. Pursuant to the amended section 33, practitioners will be suspended if they do not submit an auditor's report on their trust accounts by 31 October or by any extension of time granted by the Supreme Court.

Subsection 18(3) of the Act has also been amended to provide that where a practitioner has been suspended, the practitioner's practising certificate cannot be renewed until the suspension has been lifted.

The Bill also includes a number of amendments requested by the Supreme Court, the Legal Practitioners Conduct Board (***the Board***) and the Legal Practitioners Disciplinary Tribunal (***the Tribunal***) that will increase the effectiveness of these bodies to supervise the legal profession for the benefit of South Australia's consumers of legal services.

Subsection 23B(3) of the Act provides that an interstate practitioner practising in South Australia must give notice to the Supreme Court of any conditions or limitations imposed on the practitioner's interstate practising certificate. The Supreme Court has however expressed concern that the subsection does not specify the time in which an interstate practitioner must give this notice.

Clause 9 of The Bill amends subsection 23B(3) to introduce time limits for interstate practitioners to notify the Supreme Court of any limitations or conditions placed on their practising certificates by interstate authorities. Under the new provision, an interstate practitioner must notify the Supreme Court of any limitations or conditions within 14 days of commencing practice in South Australia or within 28 days if the conditions or limitations are imposed after the practitioner has commenced practising in South Australia. Under the Act, failure to notify the Supreme Court within the specified time limits will be deemed to be unprofessional conduct.

Subsection 82(6)(a)(iv) provides that if, after conducting an inquiry, the Tribunal is satisfied that a legal practitioner is guilty of unprofessional or unsatisfactory conduct, it may make an order suspending the legal practitioner's practising certificate for a period not exceeding three months. The 2002 Annual Report of the Tribunal recommended that the maximum suspension of three months was inadequate. The Law Society, the Chief Justice and the Tribunal have therefore requested that the Tribunal's power to suspend practitioners for unprofessional conduct be increased from three to six months. Clause 13 of the Bill amends subsection 82(6)(a)(iv) to increase the maximum period of suspension from three to six months.

The Board has requested that it be expressed in the legislation that it has the power to impose a combination of the sanctions provided for under section 77AB of the Act. Section 77AB provides that the Board may, with the legal practitioner's consent, determine not to lay charges before the Tribunal and, instead, reprimand the legal practitioner or place conditions on the legal practitioner's practising certificate or require the practitioner to make specific payments or do or refrain from doing a specific act in connection with legal practice. The Government supports the Board's requested amendment to the Act.

Clause 11 of the Bill amends the Act to clarify that the Board may impose a combination of the sanctions provided for under section 77AB. This amendment will give the Board greater flexibility to tailor its response to a practitioner's unprofessional conduct.

Traditionally recipients of the title Queen's Counsel have been required to give an undertaking to the Supreme Court of South Australia that they will not use, or allow others to attribute to them, the title when practising as a solicitor or when working in a firm of solicitors. This undertaking is consistent with the title Queen's Counsel being awarded to lawyers who have demonstrated a standard of excellence as an advocate. The title does not make any representation as to the recipient's abilities as a solicitor. Accordingly, using the title whilst practising as a solicitor has the potential to mislead consumers of legal services who are seeking to engage a lawyer to conduct solicitor work.

The Chief Justice has expressed concern that the undertaking required by the Supreme Court could, arguably, be open to challenge under section 6 of the Act. Subsection 6(1) states that it is Parliament's intention that the legal profession should continue to be a fused profession of barristers and solicitors. Also, subsection 6(3) provides that an undertaking by a legal practitioner to practise solely as a barrister or to practise solely as a solicitor is contrary to public policy and void.

The undertaking in question deals merely with the use of a title and does not require the recipient to practise either solely as a barrister or as a solicitor. However, to put the issue beyond doubt, clause 5 of the Bill inserts a new subsection (3a) into section 6 of the Act. The new subsection states that nothing in section 6 affects the validity of any undertaking made to the Supreme Court by a legal practitioner who receives the title Queen's Counsel about use of that title in the course of legal practice.

The Chief Justice and the Law Society have also requested that section 79(5) of the Act be amended. Section 79(5) provides that replacement members of the Tribunal are appointed only for the balance of the original member's term. The Chief Justice suggests that this arrangement creates unnecessary complications such as a potentially short initial appointments and the risk of overlooking the need to reappoint a replacement member. Clause 12 of the Bill amends section 79(5) to provide that where the office of a member of the Tribunal becomes vacant, before the expiry of a term of appointment, the successor may be appointed for a full term of three years.

The Bill also makes a number of amendments to update the Act to make it consistent with contemporary legislation.

Section 5 of the Act defines ***company*** to mean a company incorporated under the law of South Australia. Clause 4 of the Bill amends the definition of ***company*** to reflect the fact that in 2001 the State, pursuant to the Corporations (Commonwealth Powers) Act 2001, referred certain matters about corporations and financial products and services, including the registration of companies, to the Commonwealth. Ancillary provisions dealing with the transition to the new corporations legislation have been enacted, which have had the effect of causing the definition of ***company*** to be read in accordance with the new corporations legislation. The new definition merely updates the definition on the face of the Act.

Section 97 of the Act grants the Governor the power to make regulations that are contemplated by the Act, or are necessary or expedient for the purposes of the Act. Section 97 is out of date with other regulations making powers in contemporary legislation. Clause 14 of the Bill inserts a new subsection (3a) into section 97 of the Bill. The new subsection provides greater certainty as to what regulations may be made pursuant to section 97 and to whom they are to apply.

In relation to the possible future use of section 97 of the Act I am considering introducing a new regulation to identify government-employed lawyers as a class of legal practitioners that are required to pay no fee, or a reduced amount, for their practising certificates. In the Commonwealth, Queensland, Tasmania, Victoria and Western Australia, government lawyers are exempted from the requirement to have a practising certificate.

I merely raise this matter to give notice of my intentions as to a possible future regulation. This is not a matter that is directly related to the Bill. The proposed amendment to section 97 is consistent with current drafting style and would have been included in the Bill in any event.

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 *Legal Practitioners Act 1981*

4—Amendment of section 5—Interpretation

This clause amends section 5 to update the definition of ***company***.

5—Amendment of section 6—Fusion of the legal profession

This clause amends section 6 to ensure the validity of undertakings given to the Supreme Court by Queens Counsel regarding the use of that title in the course of legal practice.

6—Amendment of section 15—Entitlement to admission

Section 15 of the Act currently requires an applicant for admission and enrollment as a barrister and solicitor of the Supreme Court to be a resident of Australia. This clause removes that residence requirement.

7—Amendment of section 18—Term and renewal of practising certificates

This clause amends section 18 to allow the Supreme Court to issue practising certificates for a period of less than 12 months and to clarify that suspended practising certificates cannot be renewed until the period of suspension expires.

8—Amendment of section 21—Entitlement to practise

This clause amends section 21—

· to allow land agents to prepare (and charge for) tenancy agreements regardless of the amount of rent payable under the agreement provided that the agent has approved professional indemnity insurance;

· to allow trustee companies to charge for the preparation of wills (subject to a disclosure requirement relating to executor's commissions and remuneration).

9—Amendment of section 23B—Limitations or conditions on practice under laws of participating State

This clause amends section 23B to impose a time limit within which an interstate practitioner practising in this State must notify the Supreme Court of conditions or limitations imposed on the practitioner's interstate practising certificate. Under the proposed amendments, the practitioner must advise the Court within 14 days of commencing practice in this State or, if the conditions or limitations are imposed after the practitioner has commenced practice in this State, within 28 days of the imposition of the conditions or limitations.

10—Amendment of section 33—Audit of trust accounts etc

This clause is consequential to clause 7. Currently the Supreme Court must refuse to renew a practising certificate where an auditor's report has not been lodged in accordance with section 33. Because of the change to the period for which practising certificates may be issued, that provision is no longer appropriate and is removed by clause 7. Instead, this clause of the Bill provides for automatic suspension of a practising certificate where an auditor's report is not lodged in accordance with section 33.

11—Amendment of section 77AB—Powers of Board in relation to minor misconduct

This clause makes minor changes to the wording of section 77AB to make it clear that the Board can exercise more than one of the powers of the Board under subsection (1).

12—Amendment of section 79—Conditions of membership

This clause amends section 79 to delete the requirement that a successor appointed to fill a vacancy on the Tribunal that has arisen part way through a term of appointment can only be appointed for the balance of the term.

13—Amendment of section 82—Inquiries

This clause increases the maximum period for which the Tribunal can suspend a practitioner's practising certificate from 3 months to 6 months.

14—Amendment of section 97—Regulations

This clause amends the regulation making power in the Act to allow the regulations to be of general of limited application, to make different provision according to the matters or circum-

stances to which they are expressed to apply and to provide for discretion.

Mr BROKENSHIRE secured the adjournment of the debate.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The Legislative Council informed the House of Assembly that, pursuant to section 5 of the Aboriginal Lands Parliamentary Standing Committee Act 2003, the Legislative Council had appointed the Hons J.M. Gazzola, R.D. Lawson and K.J. Reynolds to act with the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts) as members of the council on the committee.

The Hon. J.D. HILL (Minister for Environment and Conservation): I move:

That, pursuant to section 5 of the Aboriginal Lands Parliamentary Standing Committee Act 2003, Ms Breuer and Messrs McFetridge and O'Brien be appointed as members of the Aboriginal Lands Parliamentary Standing committee; and that a message be sent to the Legislative Council informing them of the foregoing resolution.

In so moving, I inform the house that the members have been nominated as required under the act.

Mr HANNA: Mr Acting Speaker, I draw your attention to the state of the house.

A quorum having been formed:

Mr HANNA (Mitchell): I speak against the motion and I disclose my interest in being a member of this committee, having been concerned about the issues of indigenous people for many years. At the time that the Aboriginal lands committee legislation went through this place in July, negotiations took place involving this and other unrelated legislation. The only relevant point about that is that I understood that I had an assurance from minister Roberts that I would be a nominee. Obviously that has not transpired. It is in the hands of the house. I have been advised that, as a procedural matter, if there are to be fresh nominations, the only appropriate course is to oppose this motion. I wrote to the Hon. Terry Roberts on Thursday—

The Hon. M.J. Atkinson interjecting:

Mr HANNA: It depends what power he has. I wrote to the minister stating the position, and expressing my view that I was confident that it would be the will of the House of Assembly that other nominees be put forward. I leave it in the hands of the house. It is not a matter of life or death, but I do declare to the house that that was the understanding of a commitment that I had in July.

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Can the honourable member give us in more detail exactly the nature of the undertaking given and the nature of the discussions that he had with the minister under which that undertaking was given?

The DEPUTY SPEAKER: Order! The member has already spoken to the motion.

Mr BROKENSHIRE: I take a point of order. As a point of clarification, how is the house able to assess this very important matter in detail if it is not privy to what agreements may or may not have been made?

The DEPUTY SPEAKER: The member for Unley.

Mr BRINDAL: There is a standing order that is quite relevant to this, and it allows a member to explain a point if he is not understood. It is the exception where members can speak more than once in a debate. In view of the gravity of this matter, this is an opportunity for the member to fully inform the house, as he has been asked to do by the deputy leader. The member for Stuart, who is a former speaker, might be able to help, but there is an exception to speaking more than once.

The DEPUTY SPEAKER: Technically there is the opportunity to explain, but that creates a problem because, in effect, to put it in the vernacular, you allow members to have two bites of the cherry. It is a very risky path to go down because every time you open something up to another opportunity for someone to speak.

Mr BRINDAL: It is standing order 116, sir. With respect, Mr Deputy Speaker, if it is within the standing orders, it is not within the competence of this house to question its own standing orders. It is either there or it is not. If it is there, the honourable member should be able to speak.

The DEPUTY SPEAKER: Standing order 116 spells out the exceptions, and it permits any member who speaks to correct a matter of fact. It also refers to the mover of a motion when speaking in reply and any member who seconds a motion or an amendment before the house without speaking to it. The honourable member is not correcting a matter of fact. The deputy leader sought more information.

The Hon. M.J. ATKINSON (Attorney-General): I think I can help the member for Unley. I move:

That the matter be adjourned on motion.

The DEPUTY SPEAKER: I accept that motion.

The Hon. DEAN BROWN: On a point of order, sir, the Attorney-General has moved an unusual motion. I would have thought the motion should be that the debate on this motion now be adjourned. If that is the case, I would like clarification on what the exact motion was. Is the minister's motion that the debate on this motion be now adjourned?

The DEPUTY SPEAKER: The deputy leader may be technically correct, but the intent of what the Attorney has moved is acceptable to the house, and it is up to the house to vote on it.

Motion carried.

NATIONAL PARKS AND WILDLIFE (INNAMINCKA REGIONAL RESERVE) AMENDMENT BILL

The Hon. J.D. HILL (Minister for Environment and Conservation) obtained leave and introduced a bill to amend the National Parks and Wildlife Act 1972. Read a first time.

The Hon. J.D. HILL: 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.

As part of its pre-election policy commitments, the Government has approved new management arrangements for the Coongie Lakes area of the Innamincka Regional Reserve.

These arrangements will result in the removal of rights for exploration, prospecting and mining under the *Mining Act 1971* and the *Petroleum Act 2000* from the most environmentally significant portion of the Coongie Lakes area.

This Bill will enable the permanent exclusion of mining rights from these areas.

Currently the Coongie Lakes area is covered as part of the Innamincka Regional Reserve under Division 4A (Section 34A) of the *National Parks and Wildlife Act 1972*. This designates the land as a reserve for the purpose of conserving any wildlife or the natural or historic features of the land while, at the same time, permitting the utilisation of the natural resources of the land.

It is considered that zoning the environmentally sensitive areas of the Coongie Lakes under the Innamincka Regional Reserve management plan does not provide satisfactory long-term protection.

This Bill enables the Government to replace the 1988 Agreement between the then Minister of Environment and Planning, Minister for Mines and Energy, and the licencees of Petroleum Exploration Licences 5 and 6 which controlled the petroleum activities in a zone known as the Coongie Lakes Control Zone. This Agreement expired in 1999. Following significant work by the Department for Environment and Heritage and Primary Industries and Resources SA in reviewing the Coongie Lakes Control Zone and the options relating to both petroleum operations and environment protection for the area, and the development of a proposal by Santos and the Conservation Council of SA, the Government has determined the final shape of a new control zone for petroleum activities.

In order to provide long-term protection for the most significant areas of the Coongie Lakes system the Government has agreed to create:

- a new National Park within the existing Regional Reserve boundary (no mining and no grazing); and
- a permanent designated zone within the Innamincka Regional Reserve where petroleum and mineral exploration and production activities are excluded (section 43A and 43B of the *National Parks and Wildlife Act 1972* will not apply to this zone); and
- a special management zone around the designated no-mining zone as a buffer to be established through the park management plan (there will be access under State mining legislation to this zone but only for walk-in geophysical surveys and subsurface access in appropriate seasons).

Section 34A of the *National Parks and Wildlife Act 1972* does not allow for a Regional Reserve to be proclaimed in a manner that may exclude key areas from utilisation of the natural resources of the land.

This amendment is specific to the Innamincka Regional Reserve in recognition of its special circumstances and is not a general provision applying to all Regional Reserves. Following consideration and passage of these amendments by Parliament, the Governor may proclaim the no-mining zones. In this manner, rights could only be subsequently acquired in the no-mining zones by a resolution of both Houses of Parliament. A notice of motion under sections 28 and 34A(3) of the *National Parks and Wildlife Act 1972* will be tabled in Parliament in early 2004 seeking approval to proclaim the new National Park. Parliament's approval will be required for the proclamation of the National Park as it is excising land from the Regional Reserve.

The staff of the Department for Environment and Heritage and the Office of Minerals and Energy Resources are commended for the spirit of cooperation and hard work in achieving such an important conservation outcome in one of the more complex areas of the State.

The Amendment Bill seeks to amend section 43 of the *National Parks and Wildlife Act 1972* to enable the Governor to exclude, by proclamation, the no mining zone in the Innamincka Regional Reserve from the provisions of State mining legislation.

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 *National Parks and Wildlife Act 1972*

4—Substitution of heading to Part 3 Division 6

This clause substitutes the heading to Part 3 Division 6.

5—Insertion of section 43AB

This clause inserts a new section 43AB into the principal Act. The proposed section provides that the Governor may, by proclamation, create a zone within the Innamincka Regional Reserve, within which rights of entry, prospecting, exploration or mining cannot be acquired or exercised pursuant to a Mining Act. The clause prevents a second or subsequent zone from being established, or the created zone from being expanded. The Governor may, in pursuance of a resolution passed by both Houses of Parliament, vary a proclamation creating a zone so as to reduce the size of the zone, or revoke a proclamation creating a zone.

6—Entry onto reserves for purpose of investigation and survey

This clause provides that section 43B of the principal Act does not apply to a zone created within the Innamincka Regional Reserve under proposed section 43AB.

The Hon. I.F. EVANS secured the adjournment of the debate.

ROCKY RIVER

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: Earlier today during question time, the member for Davenport asked me a question about my awareness of the views of the Kangaroo Island Council, Tourism Kangaroo Island and the Kangaroo Island Consultative Committee on the concept plan for the Rocky River precinct. Since question time, I had have the opportunity to review my files, and advise the house of the following:

1. On 17 April 2002, I received a briefing note in relation to the Rocky River development and, in particular, to the status of Lonzar's Lodge. This memo, amongst other things, stated that considerable consultation had occurred in relation to the Rocky River concept plan and that the plan had widespread support from a range of bodies, including the three referred to by the member for Davenport. It is worth noting that the plan committed to the removal of major infrastructure, including residences, from the Rocky River site.
2. On 13 May 2002, I approved the recision of the previous minister's decision relating to the moratorium of the removal of Lonzar's Lodge.
3. On 28 June 2002, the member for Finniss was provided with a copy of the briefing following an FOI request in relation to Lonzar's Lodge.
4. On 7 August 2002, during estimates, the member for Davenport asked me, 'Did the concept plan. . . have the support of the Kangaroo Island Council, Tourism Kangaroo Island and the Kangaroo Island Consultative Committee? In response to this question, I explained the basis of my decision to approve the demolition of Lonzar's Lodge, and I informed the member, 'I am not aware of the particular views of the bodies you refer to.' This was an accurate statement at the time as the question asked by the member occurred 11 or 12 weeks after my receipt of the briefing note and my approval of the demolition of Lonzar's Lodge.

The fact is that the views of the bodies referred to by the member for Davenport, although consistent with my decision, were not central to it and, therefore, were not recollected by me at the time I answered the question. I am happy to have had this opportunity to correct the record, but I must admit that I find it strange that the opposition has taken some 14 months to raise the matter—and I note that the member for Davenport in his question today said that he asked the question on 7 August, implying it was made this year: in fact, it was made on 7 August 2002.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (SAFEWORK SA) AMENDMENT BILL

The Hon. M.J. WRIGHT (Minister for Industrial Relations) obtained leave and introduced a bill for an act to amend the Occupational Health, Safety and Welfare Act 1986; and to make related amendments to the WorkCover

Corporation Act 1994 and the Workers Rehabilitation and Compensation Act 1986. Read a first time.

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

That this bill be now read a second time.

This bill was introduced in its exact form to the previous parliament. As members would be aware, the Occupational Safety, Rehabilitation and Compensation Committee is looking at this bill, and we wish them well with their work, and obviously we are keen for that committee to report, and it is hoped that that will be in the near future.

In brief, the current responsibilities for occupational health, safety and welfare administration are split between Workplace Services and WorkCover. This has created duplication and inefficiencies. The bill proposes to consolidate all OH&S administration into one organisation, to be known as SafeWork SA. Under the bill, Workplace Services, the government's existing OHS agency, will be renamed as SafeWork SA, and all existing OH&S resources and functions performed by WorkCover will be transferred to SafeWork SA. The consolidation of all OH&S activities into SafeWork SA will reduce duplication, improve administration and service delivery and provide a more strategic focus for occupational health and safety in South Australia.

There are also, of course, other areas that are covered by the bill, such as a balanced package of OH&S training provisions; ensuring that government departments can be prosecuted for OH&S offences; non-monetary penalties for OH&S offences; the implementation of an expiation notice regime; and mediation and conciliation of workplace bullying complaints by the Industrial Relations Commission. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill has been developed in response to recommendations contained in the Stanley Report into the Workers Compensation and Occupational Health, Safety and Welfare systems in South Australia. It furthers the Government's clear commitment to reforms aimed at improving productivity within workplaces by improving safety, reducing risks, and reducing long term workers compensation costs to business.

The key changes proposed in the Bill are:

Prosecution of Government Departments

The Bill contains specific provisions to make sure that Government Departments can be prosecuted for occupational health and safety offences. This reinforces the message that the Government is serious about improved occupational health and safety performance across all industry sectors: Government Departments are no exception. The Bill will ensure that Government is treated in the same way as all other industry sectors in terms of compliance with health and safety laws.

Non-monetary penalties for breaches

Consistent with contemporary practices being considered or implemented in interstate jurisdictions, the Bill proposes that a new provision for a non-monetary penalty regime be established to provide further options for the Courts when convictions for occupational health and safety breaches occur. The non-monetary penalties contained in the Bill include:

- requiring specified training and education programs to be undertaken;
- requiring the organisation to carry out a specified activity or project to improve occupational health and safety in the State, or in a particular industry or region; or
- requiring that the offence is publicised—this could include a requirement to notify shareholders.

The consolidation of occupational health and safety administration

Currently, responsibilities for the administration of occupational health and safety are split between WorkCover and Workplace Services – part of the Department of Administrative and Information Services. This has lead to duplication and inefficiencies.

Additionally, a key finding of the Stanley Report was that the fragmentation of occupational health and safety administration has led to confusion in the community about which organisation is responsible for occupational health and safety issues.

The Bill proposes to consolidate all occupational health and safety administration into one organisation – to be known as SafeWork SA.

Under the Bill, Workplace Services, the Government's existing occupational health and safety agency, will be renamed as SafeWork SA and all existing occupational health and safety functions performed by WorkCover will be transferred to SafeWork SA. The transitional provisions detail the processes to apply for the transfer of resources to SafeWork SA. Removing occupational health and safety administration from WorkCover will also assist in ensuring that WorkCover focuses on its core responsibilities of the efficient administration of the workers compensation scheme, and ensuring the best possible rehabilitation and return to work outcomes.

The existing Occupational Health, Safety and Welfare Advisory Committee, a tripartite body, will be modified to create the SafeWork SA Authority. The functions of the SafeWork SA Authority are clearly detailed with a primary requirement for the new body to provide the Government with advice on occupational health and safety policy and strategy.

The SafeWork SA Authority will be the peak advisory body for all OH&S related activities in South Australia. The Bill provides for the appointment of an independent presiding officer and equal representation for employer and employee groups on the Authority.

Reforms to Occupational Health and Safety Training Arrangements

The Bill provides the infrastructure for the establishment of a balanced package of training reforms. This includes:

- providing the capacity for occupational health and safety training for occupational health and safety committee members and deputy Health and Safety Representatives under the regulations; and
- certainty that those workers who undergo prescribed occupational health and safety training will not be out of pocket for the costs incurred while training; and
- a requirement that responsible officers, the people with primary responsibility and control within a workplace, undertake at least a 1/2 day of training about what it means to be a responsible officer.

The Government firmly believes that a wider knowledge and understanding of occupational health and safety in the workplace will make a real difference in improving occupational health and safety performance, and therefore in reducing the costs to industry and the community.

Inappropriate Behaviour at Work

The Bill provides the capacity for the effective use of existing structures to deal with the increasing number of bullying and abuse complaints being received by Workplace Services. The Bill provides that the professional and effective services of the Industrial Relations Commission of South Australia can be used to resolve what are often highly emotive and complicated problems within workplaces.

The provisions do not take away from the opportunity to resolve such matters at the workplace level. Where necessary, inspectors will investigate, consult and encourage a solution, based on the adoption of a systematic approach to the management of health and safety at the workplace. Where this does not result in favourable outcomes, the new provisions enable referral to a low cost, effective service at the Industrial Relations Commission. The Government is keen to evaluate the effectiveness of this process and has proposed a review of the referral process after 12 months of operation.

Variations to Inspectors' Powers

The Bill modernises inspectors' powers to be consistent with other Government investigators. To balance these changes existing provisions protecting parties under investigation from self-incrimination have been updated and strengthened.

Infringement Notices

Consistent with the recommendations of the Stanley Review, the Bill introduces expiation notices for certain offences under the Act. These are for failing to comply with an Improvement Notice or failing to notify compliance with the Notice to the Inspectorate.

Clarification of Employer's Duties

The Bill clarifies the employer's duty to ensure the health and safety of anyone who could be affected by risks arising from work. This clarifies that the employer's duty is an active one that must take into account the potential for harm to anyone who might be in the workplace, from contractors and labour hire employees through to customers, visitors, patients and children.

Record Keeping

The Bill includes a requirement for businesses to keep records of occupational health, safety and welfare training in any flexible format that suits the needs of the business. This will ensure that small business can demonstrate that they have met the training requirements under the legislation, while minimising any impact on operations.

Prohibition Notices

The Bill provides greater clarity about prohibition notices in relation to what is an "immediate risk". This clarification will ensure that the notice can be used in situations where plant is in an unsafe condition (eg. a vehicle with faulty brakes), but is not activated at the time of inspection. In these situations, the immediate risk arises when the plant is activated.

Time Limitation to Institute a Prosecution

The Bill contains amendments that will allow the Director of Public Prosecutions to extend the statutory time limit to initiate prosecutions. Examples where this may be appropriate include exposure to a hazardous substance that leads to an occupational disease of long latency, and the design, manufacture or supply of unsafe plant and buildings.

This Bill has been developed through open and extensive consultation. In relation to occupational health and safety, the Stanley review consulted with some 41 individuals and organisations: 68 written submissions were received. In developing the Bill a wide range of further detailed consultative sessions were held, and 36 further written submissions were received and considered.

The Government recognises the important contribution made by all the organisations and individuals that contributed through the consultative process. There was a significant degree of consensus achieved through the consultation process. This is testimony to the capacity in South Australia for all interested stakeholders to work together to achieve better occupational health and safety performance in this State.

The *Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill* demonstrates the Government's commitment to safer workplaces for all South Australians.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment provisions

An amendment under a heading referring to a specified Act amends the Act so specified.

Part 2—Amendment of Occupational Health, Safety and Welfare Act 1986

Clause 4: Amendment of section 4—Interpretation

This clause includes new definitions relevant to the provisions to be inserted into the *Occupational Health, Safety and Welfare Act 1986* by this Act.

Clause 5: Substitution of Part 2

A new authority to be called *SafeWork SA* is to be established. The new authority will have 11 members, 9 being persons appointed by the Governor, 1 being the Director of the Department (*ex officio*), and 1 being the Chief Executive of WorkCover (*ex officio*).

The Authority will have various functions in connection with the operation and administration of the Act, and in relation to occupational health, safety and welfare. The Authority will provide reports to the Minister. It will use public sector staff and facilities.

Clause 6: Amendment of section 19—Duties of employers

This clause makes it clear that employers must keep information and records relating to relevant occupational health, safety or welfare training.

Clause 7: Amendment of section 21—Duties of workers

This is a consequential amendment.

Clause 8: Amendment of section 22—Duties of employers and self-employed persons

This amendment revises and clarifies the duty of care of employers and self-employed persons under section 22(2) of the Act.

Clause 9: Amendment of section 27—Health and safety representatives may represent groups

Clause 10: Amendment of section 28—Election of health and safety representatives

These are consequential amendments.

Clause 11: Insertion of Part 4 Division 2A

This clause relates to the training of people involved in occupational health, safety and welfare in the workplace. The training scheme under the Act will now apply to health and safety representatives, deputy health and safety representatives, and members of committees. Provision is made with respect to remuneration and expenses associated with undertaking training. A person intending to take time off work to participate in a course must take reasonable steps to consult with his or her employer. Any dispute about an entitlement under the new Division may be referred to the Industrial Commission for resolution.

Clause 12: Amendment of section 32—Functions of health and safety representatives

This is a consequential amendment.

Clause 13: Amendment of section 34—Responsibilities of employers

This clause relates to the entitlement of a health and safety representative to take time off work to fulfil his or her functions under the Act.

Clause 14: Insertion of section 37A

This amendment is intended to make it clear that the taking of action under Part 4 Division 4 of the Act does not in any way limit the ability of any person to refer an occupational health, safety or welfare matter to an inspector or other relevant person.

Clause 15: Amendment of section 38—Powers of entry and inspection

This clause relates to the powers of inspectors. It will enable an inspector to be able to obtain information about the identity of a person who is suspected on reasonable grounds to have committed, or to be about to commit, an offence. An inspector will also be able to require a person to attend for an interview, and to produce material, in specified circumstances.

Clause 16: Amendment of section 39—Improvement notices

An amendment under this clause will provide for an improvement notice to incorporate a *statement of compliance*, which is to be returned to the Department when the requirements under the notice have been satisfied. Failure to comply with the requirements of an improvement notice will now be an expiable offence.

Clause 17: Amendment of section 40—Prohibition notices

These amendments relate to prohibition notices. Currently, a notice may be issued with respect to a situation that creates an immediate risk to a person at work, or on account of any plant under Schedule 2. It is proposed that a notice will also be able to be issued if there is a risk to the health or safety of *any* person, or if there could be an immediate risk if particular action were to be taken or a particular situation were to occur. A prohibition notice will now be able to require that a particular assessment of risk occur.

Clause 18: Amendment of section 51—Immunity of inspectors and officers

Clause 19: Amendment of section 53—Delegation

Clause 20: Amendment of section 54—Power to require information

Clause 21: Insertion of section 54A

Clause 22: Amendment of section 55—Confidentiality

These are consequential amendments.

Clause 23: Insert of section 55A

This clause will establish a scheme that will enable certain types of complaints about bullying or abuse at work to be referred by an inspector to the Industrial Commission for conciliation or mediation.

Clause 24: Amendment of section 58—Offences

These amendments relate to offences under the Act. A scheme is to be established to allow proceedings to be brought against administrative units in the Public Service of the State. Another amendment will allow the Director of Public Prosecutions to extend a time limit that would otherwise apply under section 58(6) of the Act.

Clause 25: Insertion of section 60A

This amendment will insert into the Act a provision for a court, on the conviction of a person for an offence against the Act, to make various orders of a non-pecuniary nature. Under this provision, the court may—

(a) order the convicted person to undertake, or to arrange for one or more employees to undertake, a course of training or education of a kind specified by the court;

(b) order the convicted person to carry out a specified activity or project for the general improvement of occupational health, safety and welfare in the State, or in a sector of activity within the State;

(c) order the convicted person to take specified action to publicise the offence, its consequences, any penalty imposed, and any other related matter;

(d) order the convicted person to take specified action to notify specified persons or classes of persons of the offence, its

consequences, any penalty imposed, and any other related matter (including, for example, the publication in an annual report or any other notice to shareholders of a company or the notification of persons aggrieved or affected by the convicted persons's conduct).

Clause 26: Amendment of section 61—Offences by bodies corporate

Responsible officers under section 61 of the Act will be required to attend a course of training recognised or approved by the Authority.

Clause 27: Amendment of section 62—Health and safety in the public sector

This clause is part of the scheme to allow proceedings to be brought against administrative units.

Clause 28: Amendment of section 63—Codes of practice

Clause 29: Repeal of section 65

Clause 30: Amendment of section 67—Exemption from Act

Clause 31: Amendment of section 67A—Registration of employers

These are consequential amendments.

Clause 32: Insertion of sections 67B and 67C

A specified percentage of levies paid to WorkCover under Part 5 of the *Workers Rehabilitation and Compensation Act 1986* is to be paid to the Department, to be applied towards the costs associated with the administration of this Act. The percentage will be specified by the Minister by notice in the *Gazette*.

Another provision to be inserted into the Act will require the Minister to undertake or initiate a review of the Act on a 5-yearly basis.

Clause 33: Amendment of section 68—Consultation on regulations

Clause 34: Amendment of section 69—Regulations

These are consequential amendments.

Clause 35: Substitution of Schedule 3

The scheme establishing the *Mining and Quarrying Occupational Health and Safety Committee*, presently contained in the *Workers Rehabilitation and Compensation Act 1986*, is to continue under the *Occupational Health, Safety and Welfare Act 1986*.

Schedule 1—Related amendments and transitional provisions

This Schedule sets out various related amendments of the *WorkCover Corporation Act 1994* and the *Workers Rehabilitation and Compensation Act 1986*. The Schedule also makes specific transitional arrangements to facilitate the transfer of certain staff currently employed in WorkCover, to deal with relevant property, and to ensure the continuation of the current membership of the Mining and Quarrying Occupational Health and Safety Committee. Another provision will require the Minister to undertake a review of new section 55A of the principal Act after 12 months. Another provision will require all current responsible officers to participate in a course of training within 3 years after the commencement of this measure, unless the particular officer has already participated in a course of training recognised by the Authority.

Schedule 2—Statute law revision amendment of the Occupational Health, Safety and Welfare Act 1986

This Schedule makes various statute law revision amendments.

The Hon. I.F. EVANS secured the adjournment of the debate.

STATUTES AMENDMENT (WORKCOVER GOVERNANCE REFORM) BILL

The Hon. M.J. WRIGHT (Minister for Industrial Relations) obtained leave and introduced a bill for an act to amend the WorkCover Corporation Act 1994 and the Workers Rehabilitation and Compensation Act 1986. Read a first time.

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

That this bill be now read a second time.

As with the previous bill, the same committee is looking at this bill as well. We reintroduced the bill in the exact format that it was in for the previous parliament. It provides for greater scrutiny of the WorkCover Corporation's decision making arrangements by applying the Public Corporations Act 1993 to WorkCover, making the powers of the Auditor-General fully applicable to WorkCover, making the average levy setting process more transparent, and changing the structure of the WorkCover board. As I said previously, we wish the committee well. I understand that it is doing some good work, and we are hopeful that it will report back as soon as possible. I seek leave to have the reminder of the explanation inserted in *Hansard* without my reading it.

Leave granted.

On 6 June 2002, and on 24 March this year, Ministerial Statements were made in relation to the WorkCover Corporation.

By introducing the *Statutes Amendment (WorkCover Governance Reform) Bill 2003* into the Parliament, the Rann Labor Government is getting on with the job of fixing the problems left by the previous Liberal Government.

Following the announcement of the reassessment of WorkCover's unfunded liabilities, and the increase in the average levy rate, the Government said that it would take action to ensure that WorkCover is more accountable and transparent, and that its finances are rigorously assessed. We said that we would make improvements to the governance structure of WorkCover Corporation. The WorkCover Governance Reform Bill does exactly that.

The major initiatives contained in the Bill are:

Transparency in setting the average levy rate

The Bill provides for an independent committee (the WorkCover Average Levy Rate Committee), modelled on the arrangements currently applying to the compulsory third party premium committee, to make recommendations on the appropriate Average Levy Rate to achieve an acceptable solvency outcome consistent with the requirements of the *Workers Rehabilitation and Compensation Act 1986*.

The committee's findings will be considered by the WorkCover Board, who would then provide their advice, and the committee's recommendation to the Minister. There is a requirement that the WorkCover levy may not be less than the levy recommended by the independent committee unless the Compensation Fund has a sufficient level of solvency, or the Minister is satisfied that there are good reasons, in the circumstances, to depart from the Committee's recommendation.

Following the publication of a levy rates notice, the Minister must table the Committee's recommendation, the average levy rate determined by the Minister, and any guidelines issued by the Minister, in both Houses of Parliament.

Currently the legislation provides for levy rates to be set solely by the WorkCover Board. The Bill proposes to initiate the levy setting process through an independent body, the WorkCover Average Levy Rate Committee, seek the input of the WorkCover Board, and then explicitly provide the Minister with the final decision. The Minister will table the average levy rate determination and the recommendation of the Committee. This will deliver a far greater level of transparency in the setting of the average levy.

Increased Capacity for Ministerial Control and Direction

Currently the Minister has very limited powers in relation to WorkCover Corporation. This means that the Minister has a very limited ability to improve outcomes if the WorkCover Corporation takes poor decisions. The Bill will extend the Minister's power to direct and control the WorkCover Corporation, however this will not extend to decisions made in relation to particular persons (workers, employers etc) under the *Workers Rehabilitation and Compensation Act* or the *Occupational Health, Safety and Welfare Act*.

Public Corporations Act to apply to the WorkCover Corporation

The *Public Corporations Act 1993* is to apply in full to the WorkCover Corporation, with the exception of the requirement to pay stamp duty and dividends. This will provide for greater scrutiny of the WorkCover Corporation's decision-making arrangements, and provide a framework for best practice financial arrangements to be implemented through application of the Treasurer's Instructions.

Auditor-General

The powers of the Auditor-General will be fully applicable to the WorkCover Corporation. This will provide for greater scrutiny of the WorkCover Corporation's financial arrangements.

When the WorkCover Board determined the 2000-2001 accounts there were three assessments of the liabilities: two from actuaries and one by an internal unit at WorkCover. The Board chose the most optimistic assessment, which was provided by one of the actuaries. The other actuary, appointed by the auditors,

and the internal unit, both made significantly higher assessments of the liabilities. The former Board of the WorkCover Corporation now believes that the unfunded liability was as much as $100 million more than the figure it based its decision on when it reduced the average levy rate. Increasing the scrutiny of WorkCover Corporation's finances will reduce the potential for this to happen again.

The Auditor-General will have an ongoing role in scrutinising the WorkCover Corporation, as opposed to the existing audit arrangements that provide only for external audit of the annual accounts.

Composition of the Board of the WorkCover Corporation

Currently, the WorkCover Board must include a person with expertise in Occupational Health, Safety and Welfare (OH&S), and a person with expertise in rehabilitation. This Bill balances the need for a greater focus on necessary skills in the selection of Board members and the need for the key stakeholders in the workers compensation system to have direct input into the management of the WorkCover Corporation, by removing the requirements for OH&S and rehabilitation expertise in Board members whilst retaining the existing employer and employee representative arrangements.

This gives a greater capacity to appoint Board members based on necessary skills. Notwithstanding the removal of OH&S and rehabilitation expertise from Board member criteria, the Board's awareness of issues facing the scheme will be strengthened through the creation of advisers to the Board in the areas of occupational health, safety and welfare, rehabilitation and dispute resolution.

Appointment of the CEO

The Bill provides for the Chief Executive Officer of the WorkCover Corporation to be appointed by the Governor, following consultation between the Minister and the Board.

The proposed amendments to the *WorkCover Corporation Act 1994* and the *Workers Rehabilitation and Compensation Act 1986* are aimed at ensuring that the WorkCover Corporation will be subjected to the same corporate governance arrangements applicable to other Government Corporations.

The WorkCover scheme is a long-term scheme. It can take many years for the full effects of changes and decisions to be felt. This Bill is an important step in ensuring that South Australia has a sustainable workers compensation scheme for the future. This Bill will make WorkCover more accountable and transparent.

This Bill, together with the *Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill*, the new and first class Board appointed to the WorkCover Corporation, the budget decision to fund a 50% increase in the number of occupational health and safety inspectors, and the budget decision to fund a Major Hazard Facilities Unit demonstrates the Rann Labor Government's commitment to addressing the unacceptable costs of workplace injury. This Bill will help to reduce those costs by ensuring the cost-effective administration of the workers compensation system.

This Bill will deliver greater transparency in the levy setting process, and increased accountability through scrutiny by Government and the Auditor-General.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment provisions

These clauses are formal.

Part 2—Amendment of WorkCover Corporation Act 1994

Clause 4: Amendment of section 4—Continuation of Corporation

Section 4 of the *WorkCover Corporation Act* (the "Act") deals with the corporate capacity of WorkCover Corporation. It also provides, at subsections (3) and (4), that the Corporation holds its property on behalf of the Crown and is subject to the general control and direction of the Minister. Clause 5 of the Bill adds a new section 4A to the Act declaring that the *Public Corporations Act 1993* applies to WorkCover Corporation. Section 6 of the *Public Corporations Act* provides (*inter alia*) that a public corporation holds its property on behalf of the Crown and is subject to control and direction by its Minister. As a consequence of the above, subsections (3) and (4) of section 4 of the Act are deleted. It should be noted that the Ministerial power of control and direction under section 6 of the *Public Corporations Act* is not limited to general control and direction. Section 6 also contains detailed provisions about the form and content of Ministerial directions and their reporting and tabling in Parliament.

Clause 5: Insertion of sections 4A and 4B

4A.Application of Public Corporations Act

As mentioned above, this clause adds a new section 4A to the Act declaring WorkCover Corporation to be a statutory authority to which the *Public Corporations Act* applies (that is, a public corporation as defined by that Act).

4B.Limitation of Ministerial power of direction

The clause also inserts a new section 4B that excludes the possibility of Ministerial directions about the exercise or performance, in relation to a particular person, of a power or function of the Corporation under the *Workers Rehabilitation and Compensation Act 1986* or the *Occupational Health, Safety and Welfare Act*.

Clause 6: Amendment of section 5—Constitution of board of management

This clause removes the requirement that the board of management of WorkCover Corporation must include at least 1 person experienced in occupational health and safety and at least 1 person experienced in rehabilitation. This clause should be read together with clause 10.

Clause 7: Amendment of section 6—Conditions of membership

Section 6(2) of the Act empowers the Governor to remove a member of the board of WorkCover Corporation on various specified grounds. The clause replaces this provision with a provision allowing removal of a board member on the recommendation of the Minister which may be made on any ground the Minister considers sufficient.

Clause 8: Repeal of sections 8 and 9

This clause deletes sections 8 and 9 of the Act. Section 8 provides for disclosure of interests by board members. That matter is now to be dealt with by section 19 of the *Public Corporations Act*. Section 9 provides for board members' duties of honesty, care and diligence. Sections 15 and 16 of the *Public Corporations Act* are to apply instead.

Clause 9: Amendment of section 10—Validity of acts of members

Section 10(2), (3) and (4) provide an immunity for board members for liabilities honestly incurred. The immunity provided by section 22 of the *Public Corporations Act* is to apply instead.

Clause 10: Insertion of section 15A

15A.Specialist advisers

Under this clause, the Governor is empowered to appoint suitably qualified persons to provide advice to WorkCover Corporation on occupational health and safety, rehabilitation and dispute resolution.

Clause 11: Repeal of section 17

Section 17 of the Act provides for delegation by WorkCover Corporation, a matter that is now to be dealt with by section 36 of the *Public Corporations Act*.

Clause 12: Repeal of Part 4

Part 4 of the Act makes provision for the accounts of WorkCover Corporation, the auditing of those accounts and annual reporting by the Corporation. These matters are instead to be regulated by sections 32 and 33 of the *Public Corporations Act*.

Clause 13: Amendment of section 21—Chief Executive Officer

The Chief Executive of WorkCover Corporation is to be appointed by the Governor (rather than, as at present, by the board), after consultation between the Minister and the board.

Clause 14: Amendment of section 22—Other staff of Corporation

Subsections (3) to (6) of section 14 of the Act deal with transitional staffing arrangements relevant to the commencement of the Act and, as such, are deleted.

Clause 15: Amendment of section 27—Exemption from stamp duty

Section 27 of the Act exempts WorkCover Corporation from liability to insurance stamp duty. The clause provides that this exemption operates despite section 29 of the *Public Corporations Act* (which requires public corporations to pay tax equivalents except as otherwise determined by the Treasurer).

Clause 16: Insertion of section 27A

27A.Corporation not to be required to pay dividends

A new section 27A is added excluding the application of section 30 of the *Public Corporations Act* (which empowers the Treasurer to require a public corporation to pay dividends).

Part 3—Amendment of Workers Rehabilitation and Compensation Act 1986

Clause 17: Amendment of section 65—Preliminary

This clause inserts definitions of "average levy rate", "Committee" and "sufficient level of solvency" for the purposes of Division 4 of the *Workers Rehabilitation and Compensation Act* (the "Act").

Section 66 of the Act empowers WorkCover Corporation to impose a levy on employers. For that purpose, the Corporation may divide the industries carried on in the State into various classes and fix different percentages as levy rates for the various classes. "Average levy rate" is defined as a single percentage notionally applicable as the rate of the levy to all classes of industry. How the average levy rate is to be calculated may be governed by guidelines issued by the Minister (*see* proposed new section 65B(4)).

The "Committee" is defined as the WorkCover Average Levy Rate Committee established under proposed new section 65A.

For the purposes of Division 4 of the Act, WorkCover Corporation's Compensation Fund is to be treated as having a sufficient level of solvency if the amount in the Fund equals or exceeds an amount calculated in accordance with the formula for the time being adopted by the Corporation (a formula which the Corporation will be required to adopt to calculate the sufficiency of the Fund to meet its reasonably estimated liabilities as they fall due from time to time).

Clause 18: Insertion of sections 65A and 65B

65A.WorkCover Average Levy Rate Committee

A 5 member committee is established with the function of recommending an appropriate average levy rate under proposed new section 65B as part of processes prescribed by that section preliminary to the making of any changes to the rates of the levy under section 66 of the Act.

Of the 5 members, one is to be appointed after consultation with employer associations, one after consultation with employee associations and 2 as persons with insurance, financial risk management, actuarial or other relevant expertise.

The Committee is to have the powers of a royal commission. Its reasonable costs are to be met by WorkCover Corporation.

65B.Levy rates notices and determination of average levy rate

A notice under section 66(6) fixing the percentages applicable to classes of industry as the rates of the levy under that section, or varying the percentages, is defined as a levy rates notice.

The proposed new section lays down a process to be followed before WorkCover Corporation may publish a levy rates notice:

- first the Corporation must refer the question of an appropriate average levy rate to the WorkCover Average Levy Rate Committee
- the Minister must then determine an average levy rate that is to be applied by the Corporation in formulating the levy rates notice (in determining the average levy rate the Minister is to consider the Committee's recommendation and supporting reasons and any advice of the Corporation relating to the Committee's recommendation)
- the Corporation must then certify to the Minister that the proposed levy rates notice applies the average levy rate determined by the Minister.

The Minister is empowered to issue guidelines that are to be observed in recommending or determining an average levy rate, or to provide the basis for determining whether the Corporation has applied the average levy rate determined by the Minister when formulating a levy rates notice.

After Gazetting of a levy rates notice, the Minister is required, within 6 sitting days, to table before each House of Parliament:

- a copy of the Committee's recommendation
- a statement of the average levy rate determined by the Minister
- a copy of the Minister's guidelines referred to above.

Finally, the proposed new section excludes the possibility of a court challenge to the validity of a levy rates notice based on any of the requirements of the section.

The Hon. I.F. EVANS secured the adjournment of the debate.

HIGHWAYS (AUTHORISED TRANSPORT INFRASTRUCTURE PROJECTS) AMENDMENT BILL

The Hon. M.J. WRIGHT (Minister for Transport) obtained leave and introduced a bill for an act to amend the Highways Act 1926; and to make a related amendment to the Local Government Act 1999. Read a first time.

The Hon. M.J. WRIGHT: 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 Port River Expressway is a major South Australian infrastructure project.

When completed it will provide major new transport connections for South Australia's most important trade gateway to and from the port of Port Adelaide and its surrounding precinct, boosting our export potential and contributing to quicker, more efficient freight movement.

The Port River Expressway will overcome deficiencies in the existing indirect and congested transport links to the major freight and shipping facilities in the Port (soon to be augmented by the new grain handling facility at Outer Harbor). In addition, the project will provide substantial social and economic benefits by diverting heavy commercial traffic around Port Adelaide's residential and business centre. This will complement the Port Waterfront Redevelopment Project which aims to transform the Port Adelaide Inner Harbor area into a key visitor and lifestyle destination for metropolitan Adelaide.

The Government is committed to delivering this project as soon as possible – and working with all members of this Parliament in achieving that end.

Today, I present the *Highways (Authorised Transport Infrastructure Projects)Amendment Bill*. The purpose of this Bill is to provide for essential statutory powers to enable the project to proceed—and to provide a statutory framework for future infrastructure projects with cross-portfolio involvement.

The Bill presented today is the result of advice taken by the Government from the Crown Solicitor. It seeks to address several issues that the Crown Solicitor has advised require legislative clarification.

Specifically, the Crown Solicitor's advice indicates that there are currently insufficient land acquisition powers for both road and rail purposes for the current project. The powers to undertake rail construction works are also deficient. Advice also indicates that statutory provision should be made for the bridges to obstruct the common law right to navigation of tidal waters, to enable the restriction of access to existing rail infrastructure (the Rosewater loop of the Interstate Main Line) and to set or collect rail tolls.

These issues must be resolved before a tender contract is awarded and works on the Port River Expressway (stages 2 and 3) commence, in order to provide certainty for Government and private participants in negotiations.

The Bill will extend the range of powers currently available to the Commissioner of Highways under the *Highways Act 1926* and the Minister for Transport will be provided with a number of new powers to enable construction and operation of the new rail line.

These powers will be exercised by the government agencies designated by the Minister for Transport in accordance with Cabinet direction. The Bill provides for maximum flexibility in the delivery of cross-portfolio infrastructure projects while also maintaining appropriate levels of accountability.

The Government has acted decisively to address the legal issues in relation to the Port River Expressway project by having this Bill drafted within a tight timeframe.

I believe that the Port River Expressway project is an excellent example of bipartisan cooperation, all parties having previously indicated their support.

I am sure that members opposite will assist the Government in expediting this legislation so that there are no unnecessary delays before tenders can be awarded and works commence. I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Highways Act 1926*

4—Amendment of section 20—General powers of Commissioner

The proposed amendment will allow the powers of acquisition under section 20 to be used for any of the following purposes:

- quarrying for road materials
- the erection or installation of plant or equipment for roadwork or quarrying
- the storage of plant, equipment or material used in connection with roadwork or quarrying;

· the re-location of residents or businesses displaced by the exercise of any of the Commissioner's powers.

5—Substitution of Part 3A

This clause provides for the repeal of Part 3A and its substitution. New Part 3A is to be headed "Authorised Transport Infrastructure Projects". The Part is to be divided into 4 Divisions. Division 1—Preliminary (comprising new section 39A) contains definitions of the words and phrases for the purposes of this New Part.

Division 2—Authorised projects (comprising new sections 39B and 39C) provides that the Governor may (by proclamation) declare a particular project to be an authorised project for the purposes of this measure. Such a proclamation must contain an outline of the project—

(a) containing—

(i) reasonable particulars of the principal features of the project; and

(ii) any information about the project required under the regulations; and

(b) specifying the land to which the project applies.

The Minister may by notice in the Gazette—

(a) supplement the particulars contained in a proclamation with further details of a particular project; and

(b) vary a notice previously published under this proposed section.

The project outline together with any supplementary particulars contained in a Ministerial notice under this proposed section together constitute the project description for a particular project.

Before work on an authorised project commences, a detailed description of the project and how it is to be funded must be referred to the Public Works Committee of the Parliament for inquiry and consideration.

New section 39C (Responsibility for carrying out authorised project) provides that responsibility for carrying out an authorised project must be assigned in the project description to a particular government agency or to particular government agencies (the ***project authority*** or ***project authorities***) and responsibility may be divided between a number of agencies. A project authority to which responsibility is assigned for carrying out an authorised project, or a particular part or aspect of an authorised project, has all the powers necessary for, and reasonably incidental to, carrying out the authorised project or the relevant part or aspect of the authorised project.

A project authority may, with the Minister's approval, delegate its powers and functions and such a delegation may be made, if the Minister approves, on terms that allow the delegate to subdelegate the powers and functions.

Division 3—Implementation of authorised projects comprises new sections 39D to 39I.

New section 39D (Acquisition of project property) provides that the Minister may acquire real or personal property for the purposes of an authorised project.

New section 39E (Power to transfer property etc) provides the Minister with power to exercise certain specified powers for the purpose of giving effect to an authorised project.

New section 39F (Declaration of public roads etc) provides the Minister with power to exercise certain powers in relation to land for the purposes of an authorised project.

New section 39G (Power to close roads or railway lines) provides a project authority with power, if so authorised by the Minister, to close a road temporarily or, if so authorised under the project description, permanently. A project authority may, if so authorised under the project description, close or limit the use of a particular railway line and, accordingly, give directions to an operator who uses the line. No liability is incurred by the Crown or a project authority as a result of the exercise of powers under this proposed section.

New section 39H (Power to obstruct navigation) provides a project authority with power, if so authorised by the Minister, to temporarily obstruct a right of navigation to enable or facilitate the carrying out of the authorised project. If the project description declares the permanent obstruction of a right of navigation to be necessary for the implementation of an authorised project, the project authority may permanently obstruct the right of navigation. No liability is incurred by the Crown or a project authority as a result of the exercise of powers under this proposed section.

New section 39I (Power to enter and temporarily occupy land) provides that authorised persons may exercise the powers conferred by Part 5 of the *Land Acquisition Act 1969* for the purpose of determining whether the land is suitable for use for a proposed authorised project or for carrying out an authorised project. The Crown is liable for any compensation payable under section 29 of that Act.

New Division 4—Tolls comprises new sections 39J and 39K. New section 39J (Tolls) provides that the Minister may, by notice in the Gazette, fix a toll (which may vary according to various factors) for vehicular access (both road and rail) to the transport infrastructure forming part of the Port River Expressway project. Certain classes of vehicle (such as emergency vehicles) are exempted from payment of a toll.

New section 39K (Traffic control devices and other structures) provides a project authority (with the Minister's approval) to erect or install traffic control devices, and other structures and equipment, that may be necessary or desirable to facilitate the collection of tolls.

6—Amendment of section 43—Regulations

This clause provides for the regulations to fix differential penalties and expiation fees for regulations providing for offences against new Part 3A depending on whether the offence is committed by a natural person or by a body corporate.

Part 3—Amendment of *Local Government Act 1999*

7—Amendment of section 4—Interpretation

8—Amendment of section 211—Highways

These amendments are consequential on the amendments proposed to the *Highways Act 1926* in relation to authorised projects.

Mr BROKENSHIRE secured the adjournment of the debate.

[Sitting suspended from 5.58 to 7.30 p.m.]

SUMMARY OFFENCES (VEHICLE IMMOBILISATION DEVICES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 282.)

Mr BROKENSHIRE (Mawson): With respect to the Summary Offences (Vehicle Immobilisation Devices) Amendment Bill 2003, I advise the house that the Liberal opposition will support this bill. I also advise that it will not go into committee.

The Hon. M.J. Atkinson: We could have done it before dinner.

Mr BROKENSHIRE: Indeed, we could have done it before dinner, as the Attorney-General points out, if so many ministers had not taken up the time. However, there are several points I will place on the record. The Liberal Party supports the bill for a number of reasons, not the least of which is that spikes were introduced during the time of the last Liberal government. Unfortunately, I cannot claim that it came in when I was the minister. It came in—

The Hon. M.J. Atkinson interjecting:

Mr BROKENSHIRE: Well, we did a lot when we were in government: you will see that, as you move through your term of office. It was the Hon. Wayne Matthew, the member for Bright and then minister for police, who, with the then commissioner, David Hunt, introduced the spikes process to South Australia. My point is that if we were supportive of it when we were in government, when the initiative first came through, why would we now not support the immobilisation devices amendment bill?

This bill brings a few key points before the parliament which make sense. When SAPOL officers have to bring the spikes across the roadway, it is different from a general roadblock. Therefore, it makes sense to bring this in so that future regulation, approved by the minister of the day, can

allow police to be able to use the stingers spikes that they have, or, indeed, any better type of future innovation. The South Australian police have used slow release tyre deflation devices for some time.

This bill will address the matter that it is not like a general road block and therefore should not require the same cumbersome but important procedures as a general road block. Freeing up the opportunities to improve practicalities for operational police makes sense. Of course, in a matter like this, it also makes sense to be able to change the requirements around the designated senior police officer who gives approval to utilise these spikes. Provided there is adequate training on the use of stinger spikes for police officers in metropolitan and, importantly, the rural areas of South Australia, then clearly there should not be a problem there.

The opposition supports the initiative that the Attorney-General is proposing to simplify these procedural and operational matters. I point out and put on the public record that these devices are quite safe. I know that at times some people are concerned that if SAPOL rolls out the stinger spikes they can cause a problem for vehicles or that vehicles travelling over these spikes could be a road hazard. However, the way they are designed means that the tyres do not deflate immediately. It actually takes a little while for that to happen and therefore it brings that vehicle to a steady halt. I reassure the public that the opposition has looked at these issues and, from that point of view, it is not a risk factor to road safety for the broader community.

The issue of car chases has become more of a concern in recent times. I think this has nothing to do with any specific reason, but I want to raise this point. If you watch what happens with car chases over a period of years, it appears on the surface that there has been an increase in high speed car chases in recent times. I do not have the statistics on that, but no doubt they would be available. I am worried that a copycat situation may be occurring at times. Whilst I know that it is important to an extent that the media report on car chases, I think that most members of parliament would agree that, if this sort of thing is highlighted and it looks a bit exciting on the television news, you sometimes ask yourself whether or not it encourages a bit of copycat behaviour.

The Attorney-General would like me saying this: in my years as police minister I considered the fact that at times copycat behaviour was a risk when some things were highlighted. On the other hand, it is fair that the media are able to report on what is happening and that the community is well informed. Unfortunately, of course, when there are car chases there are risks, and I am always concerned about the safety of police officers who are involved in these car chases. We have seen a number of cases where police officers' vehicles have received quite a bit of damage from the car chase.

At times we have seen some tragic incidents with car chases, not the least of which was just in the last few weeks with a lady travelling home from work who happened to get caught up in a very unfortunate set of circumstances with people who had stolen a car and who were involved in a police pursuit. In the media the argument is divided, and sometimes I read in the print media that some people say that police should not chase these cars at all.

The Hon. M.J. Atkinson: They do.

Mr BROKENSHIRE: Some do. As the Attorney-General confirms, some people say that. I do not agree with them; I actually think that we need to catch these perpetrators. If you think about it, to most of us, next to our home our car is one of our most important possessions. There is nothing worse (as I have experienced in my own family recently) when you leave the shopping centre only to discover that your car has been stolen from the car park. It is a shocking thing. We must stop car theft. Of course, often people steal these cars to assist in other offences, such as ram raids, and so on. I support the police. I have confidence in the police and their decision-making processes with respect to car pursuits.

However, I also support the initiative the police have been using over, probably, a four-year period, namely, using the Rescue 2 helicopter to be more actively involved in pursuit chases of people in a known stolen vehicle. When I was police minister, I recall (and this is the third time I will point this out tonight, just for the interest of the Attorney-General) receiving a phone call at home at about 2.30 in the morning. It was rather an abusive phone call. Someone had managed to get my after hours number. They were disturbed by a helicopter hovering over their home.

I followed this up and found that the helicopter was hovering over their home because it had been following a stolen vehicle. The helicopter was very much an integral part of the pursuit and successful apprehension of the people who had stolen the vehicle. I did point out to that man that I was sure that, if there was a serious situation in his area and he was not at home, he would appreciate the police in that helicopter with its searchlight protecting his wife and children. I raise all that because I think there is an opportunity for expanded use of the helicopter in car pursuits.

You can eliminate many of the vehicles in pursuit of a stolen vehicle. Once the helicopter has located the particular vehicle it can then track it. Often people in a stolen vehicle will not even know the helicopter is above them. If you talk to people who have been involved in a lot of policing activities, in places such as the United States of America, they regularly use a helicopter. I say to the South Australian community: please do not get agro with the police when they are doing their job, and please consider that the helicopter is an integral part of vehicle theft pursuit, together with the spikes, which is a sensible way of going about apprehending these offenders.

I commend the police for the work they do. It is difficult work. They put themselves at risk. As a parliament, we should be doing everything we can to make it safer for them and for the broader community. This bill assists, clarifies and qualifies the intent of spikes and, therefore, vehicle immobilisation devices. As the Liberal Party's spokesperson in opposition, I indicate our support for the bill.

The Hon. M.J. ATKINSON (Attorney-General): I thank the opposition for its perceptive and helpful approach to this bill.

Bill read a second time and taken through its remaining stages.

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

Adjourned debate on second reading.

(Continued from 15 October. Page 459.)

Ms CHAPMAN (Bragg): The Statutes Amendment (Division of Superannuation Interests Under Family Law Act) Bill—

Members interjecting:

The ACTING SPEAKER: Order! The member for Colton and the member for Mawson are out of order. The member for Bragg has the call.

Ms CHAPMAN: —seeks to amend the Judges Pension 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—that being 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.

I wish to state briefly, in relation to the commonwealth legislation, that prior to December 2002 superannuation benefits could only be taken into consideration by the Family Court when dividing property between a husband and wife. This led to court decisions where one party often kept the superannuation entitlement and the other the house or real estate or other personal property of the parties. That was often very unsatisfactory to both the husband and wife.

The changes to the Family Law Act now allow superannuation benefits to be divided by agreement between the husband and wife, or by a court order when the husband and wife separate and/or divorce. As with many changes to the law, parliament has created a new range of phrases that have technical meanings. The amendments to the Family Law Act are no exception. For example, there is the 'splitting by agreement', or court order, and the federal law provides that parties to a marriage can now enter into a binding agreement, which provides how the superannuation benefit of a party to a marriage is to be divided between them on separation. In order for a superannuation agreement to be binding, it must be signed by both the husband and the wife and contain a declaration that both parties have obtained independent legal advice.

There are certain other requirements as to the disclosure of information and, importantly, a trustee of the fund must act on the superannuation agreement when it is properly served on it. Again, there are certain rules and requirements in relation to the service and information to be provided. A court can also make an order in relation to a superannuation interest and an amount to be paid to the non-member's spouse when a splittable payment is payable to the member's spouse.

Then, there is the flagging by agreements. The superannuation benefit under the new legislation may be subject to what is called a 'payment flag'. A payment flag is placed over a superannuation benefit, by serving on the trustee a superannuation agreement. Where a payment flag is served on the trustee, the trustee must not make any splittable payments to any person in respect of that superannuation interest; that is, the specific interest that has been flagged. This allows the husband and wife to defer dealing with any superannuation benefits until a later date. A payment flag can be lifted by a court order, or the husband and wife can serve on the trustee what is known as a 'flag-lifting agreement'.

There are also amendments which relate to the portability of superannuation interest. Those amendments have been made to the superannuation supervision regulations that permit the trustee of an accumulated fund to create a separate interest in a fund in respect of the non-member's spouse following a payment split.

The impact of the changes to the Family Law Act on defined benefit funds, however, are much more complicated. Then, of course, there are other aspects still under consideration in many of the cases which are now before the Family Court which relate to the implementation of this new law. I might add, there are quite a number of these cases coming before the court as a result of the court's power to adjourn proceedings prior to December 2003, to enable parties to benefit from being able to access and use the new amendments. Indeed, a number of cases have been adjourned to enable that to occur, and they are now on the court list. That is, where parties have separated prior to 28 December 2003 (sometimes well over a year prior) the court has quite often imposed—or the parties have agreed—that the case will be heard at a later date, because justice requires that that is the best way to resolve the matter, particularly where the superannuation interest forms a very large component of the total asset pool of the parties. But there are many other issues in relation to adjustment factors, the information requirements to be disclosed, and how taxation liability is to be taken into account which the Family Court judiciary is going to have to grapple with, and we will watch the case law that follows with interest.

It is very important to appreciate the significance of this legislation, if only because those in generations X and Y of our community—those persons younger than many of us here in the chamber—are in circumstances where multiple marriages are, and will be, a part of their lives. I often quote an interesting statistic to young people coming through schools, particularly to young girls. I tell them that, statistically, girls born after 1962 will have more husbands than children. It is important to appreciate the necessity of identifying ways in which we can best accommodate a just and equitable settlement between husbands and wives, especially when they may be multiple.

You might appreciate, Mr Acting Speaker, that the significance here is that in decades to come it will not be unusual for someone's superannuation entitlement, when it comes to fruition and to where it is available for distribution, to have several flagged entitlements on it by multiple former spouses. Indeed, the member of that fund may have a flag or entitlement in someone else's fund, who has also been a spouse. The complications are clearly there and, no doubt, are going to be a minefield for practitioners in the court to deal with in the future. But at least we have a formula, under the commonwealth system, to ensure that we have the best opportunity of protecting just and equitable interests and outcomes for those who cohabit in a state of marriage and then seek to have their property and financial entitlements distributed in such a manner.

What has happened between the initial introduction of the bill earlier this year, which lapsed, and this revised bill now being introduced by the Attorney-General during this current session of parliament, is that an opportunity for important stakeholders to be consulted has been provided. I note that the South Australian Government Superannuated Employees' Association Inc., trading as SA Superannuants, has been a significant contributor to this current bill and the amendments that have been incorporated within it. Dr R.J.S. Hickman has met with members of the government and members of the opposition, and has raised concerns in relation to the introduction of the bill that was before the state parliament in March this year. In his letter after the consultations were given, Dr Hickman said:

> We express concerns associated with the fact that this bill provided for pension benefits in the payment phase to be divided on the basis that the non-member spouse will be offered the choice of

a pension which will cease on the death of the member spouse or a lump sum obtained by commuting the pension using normal commutation factors.

Later in that correspondence, he said:

I am pleased to say that the revised bill meets our concerns by now providing for a non-member spouse to have the additional option of receiving an associate pension which will continue for that person's lifetime. This is a provision that parallels the commonwealth's arrangements for its pension schemes. We understand from the briefing that the associate pension will be calculated actuarially, taking account of the different life expectancies of the member and non-member spouses. We expect to be given a copy of the regulations when they are ready to go before the parliament and we will be examining them closely. Should they contain detail which concerns us we may contact you again. However, we are now optimistic that the government proposals will achieve the objective of facilitating property settlements in the event of marriage breakdown in a manner which is fair to fund members and their spouses.

I appreciate the time and contribution that has been made by SA Superannuants and Dr Hickman, in particular, for his careful consideration of the bill. It has culminated in amendments being incorporated by the government in the period between when the bill lapsed and the introduction of the bill which is currently being debated. In the Attorney-General's second reading explanation of 15 October 2003 (page 453), with reference to the options that are given in these circumstances, he said:

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 of age commutation factors.

I feel some comfort has been given to the SA Superannuants by those words from the Attorney-General. There is a genuine commitment, I believe and, from their correspondence, they accept that. They raised this important issue, and it is to be incorporated into the bill. Very importantly, the regulations are yet to come. The commitment has been made by the government. As indicated by the SA Superannuants reference (which I have quoted), they will be examining very closely the regulations when they are presented to the parliament to ensure that they facilitate the identified objectives of the government, consistent with the remedy necessary as identified by SA Superannuants.

So, I thank the government for clearly taking into account these important amendments. It has listened carefully in relation to those. The effect of this legislation is to try to ensure that we have compatible legislation that will complement the requirements of the Family Law Act legislation—that is, the federal situation—to ensure that we have a just and equitable outcome for married couples, one of whom at least may be the beneficiary under the identified funds that are referred to within the state of South Australia.

The Hon. M.J. ATKINSON (Attorney-General): I thank the opposition for its detailed analysis of the bill and for its support.

Bill read a second time.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That the bill be now read a third time.

The member for Bragg said that part VIIIB of the Family Law Act commenced on 28 December 2003. In fact, it commenced on the Feast of the Holy Innocents, December 2002.

Bill read a third time and passed.

EDUCATION (MATERIALS AND SERVICES CHARGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 467.)

Ms CHAPMAN (Bragg): I move:

That the debate be further adjourned.

The house divided on the motion:

AYES (18)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A. (teller)	Evans, I. F.
Goldsworthy, R. M.	Gunn, G. M.
Hamilton-Smith, M. L. J.	Kerin, R. G.
Kotz, D. C.	Matthew, W. A.
McFetridge, D.	Meier, E. J.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

NOES (23)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
Maywald, K. A.	McEwen, R. J.
O'Brien, M. F.	Rankine, J. M.
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.
Hall, J. L.	Conlon, P. F.

Majority of 5 for the noes.

Motion thus negatived.

Ms CHAPMAN: The materials and services charge came about in South Australia 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 services. I place on the record that it was never part of South Australia's history to provide free materials and services—books and pencils, slates and chalk, calculators, slide rules or computers, as the last 100 years have transpired—although it was one of the first states to do so. They have been provided by the student, or usually by their parent, carer or guardian, and it was not until the 1960s that the opportunity for bulk buying was taken advantage of by schools exercising the bulk purchasing power that they had, acquiring all the necessary equipment for the students, and then allowing the families to buy an affordable pack of materials directly from the school at enrolment time or at the commencement of the academic year.

In October 2000, the Education (Councils and Charges) Amendment Bill was introduced into the parliament by the then Liberal government to provide the authority and the capacity for legal enforcement of the recovery of the charging of fees to students of South Australian government schools. A sunset clause was inserted into the act to ensure that the fee-charging provisions would expire on 1 December 2002.

The education minister, the Hon. Trish White, who was shadow minister at the time that bill was introduced, explained that the February 2002 election had interrupted the opportunity for the parliamentary select committee to report to the parliament. Late in November last year the Education (Charges) Amendment Bill 2002 was rushed through this parliament. The purpose of that bill was to extend to 1 December 2003 the sunset clause associated with the aforementioned fee-charging provisions. Notwithstanding that the current government had been in office for some eight months, it claimed at the time that it simply had not had sufficient time to conduct its inquiry for the purposes of presenting its position at the time the sunset clause would come into effect, namely, 1 December 2002.

This bill to amend the Education Act 1972 was finally introduced last week and enables the ongoing charge for materials and services for students in South Australian government schools. I wish to refer briefly to the current legislation and, indeed, the effect of this bill. The current legislation is incorporated within sections 106A to 106C of the Education Act 1972 (as amended). The bill before us seeks to substitute the current section 106A of the Education Act with a new regime, indeed a new section 106A, to set down the qualifications, entitlement, obligations and procedure for the continued implementation of a compulsory fee. I just wish to run through each of the subsections of new section 106A in clause 4 of the bill, in so far as they relate to a rewriting of the current section 106A. New section 106A(1) is wholly incorporated in the current section 106A(1)(b)(i). New subsection (2) is wholly incorporated in the current section 106A(2). Subsection (3) is new but unnecessary, and I will come to that in due course.

Subsection (4) is incorporated in the current section 106A(1)(b)(ii). Subsection (5) is covered by the current section 106A(1)(c). Subsection (6) is incorporated in the current section 106A(3). Subsection (7) is contained within the current section 106A(4). Subsection (8) is new, and I will refer to that in a moment. Subsection (9) is wholly incorporated in the current section 106A(8). Subsection (10) is partly incorporated in the current section 106A(6) and partly incorporated in the current section 106A(1)(a). Subsection (11) is incorporated in the current section 106A(5). Subsection (12) is contained within the current section 106A(7). Subsection (13) is contained within the current section 106A(9). Except for three amendments of any substance, which I indicate are minor, almost the whole of the current section 106A is repeated in this bill. It fills up three pages, but it does not make any substantive amendment other than the three aspects to which I will refer.

Section 106C is amended to simply deal with other payments not being affected. Section 106D is deleted for reasons which will become clear, and the regulations under section 107 have been extended by definition to extend the current reference to books and materials to a more expanded definition with slightly more detail.

The bill's new features (as distinct from a current compulsory education school fee that is imposed) are, firstly, that the government proposes in this bill that administrative instructions may be given under section 96 in respect of the materials and services for which materials and services charges may be imposed. I suggest to the house that, in fact, that is completely unnecessary, because section 96 already makes provision for that, and it does not need to be repeated in this section of the act. Nevertheless, I suggest that the government's haste to try to distinguish its compulsory school fee proposal from the previous government's school fee proposal has elevated this to a status of attempting to convince the people of South Australia that this provides some distinction. That has always been there for the material period that we are talking about, it has always been available, and those administrative instructions could have been implemented at any time.

The second area is that the government has attempted to impose a regime that will facilitate the opportunity for school councils to recover an unpaid school fee from a liable party—usually a parent or guardian—when it has been a voluntary payment. The purpose of this is to indicate in the legislature a mechanism by which a voluntary component can become a legally enforceable obligation of the parent or guardian. It does so by introducing a procedure whereby if, in fact, the parent has entered into an agreement with the school council that they will be liable for the voluntary payment, that can then be enforced. In other words, if a parent is prepared to enter into a contract with the school council to say that they will be liable for that charge, the school council will have the capacity to include that, if necessary, in any legal proceedings it might take against the parent who subsequently defaults in that payment.

The third area is to provide for a marginal increase in the capped amount. We are moving, for example, in relation to the primary level of enrolled students, to an amount of $166 as a capped feature, as distinct from the previous $161. Bearing in mind that, in fact, in the preceding 12 months alone, the government has not permitted an indexation of these payments that can be billed by the school, that is hardly surprising. They need to be able to confirm a more realistic base at least on the basis of the previous precedent that was set. By no means do I suggest that that is adequate from the point of view of the schools, but that is the third minor amendment that the government seeks to present.

Notwithstanding that being the position, the government has presented the argument that it has provided a whole new regime for the purposes of school fees and materials and services charges. It says that it will introduce the administrative instructions (referring to the first item). At the briefing that I was given on this matter on Monday morning, the state of preparation of the administrative instructions appears to have been at the stage of being under construction. They were not even in draft form at that stage, and that is concerning in itself. In any event, they may or may not ever transpire but, as I said, that has been a power that has always been there. The minister could have prepared these but, clearly, they have not been prepared, so we have no idea what the government has in mind in relation to introducing a concept of greater definition, apparently for the benefit of parents, so they understand whether they are being charged for something that is for a core service or to supplement a core curriculum requirement, as distinct from some optional extra curricula benefit to the child.

In relation to the voluntary payment, and that being legally recoverable if the parent enters into an agreement with school council, may I simply say this: if a parent, for whatever reason, decides they are unable or unwilling to make a

voluntary payment—whether it be because they are a conscientious objector or because they take the view that they should not have to make any contribution of that kind, or because education should be free, or whatever their argument might be, or whether they have missed out on a School Card entitlement and feel aggrieved about that, or whether they simply say, 'I'm not eligible for a School Card payment, but my current financial circumstances are such that that I cannot pay'—whatever category they might fall in, clearly, that group in the community, the parent community, who are unwilling or unable to pay, as distinct from those who are eligible for School Card or those who are quite willing to pay, are hardly going to enter into an agreement with the school council to be liable for that cost if they are in that category.

So, what possible advantage this proposal by the government will have in real terms is quite beyond me to appreciate. It may become clear when the minister has an opportunity to reply, but it seems to me that the capacity for forcing people to pay a voluntary payment they are otherwise unable to contribute, by virtue of asking them to enter into an agreement, is just a complete fallacy.

As to the marginal increase in the cap amount, I think I have indicated that that is quite logical, given that there has not been an increase. I might say that the current legislation provides for an indexation factor: it is actually in the act. In fact, it uses exactly the same relevant indexation factor as that proposed under this bill. Of course, it is within the power of the minister to determine whether the indexation factor is going to apply. Clearly, she has taken the view, for whatever reason, and it might have been quite appropriate, but, nevertheless, that was not going to be available, at least in this last 12 months.

So, they are the amendments—the real changes—to what otherwise is a proposal by this government in the bill to perpetuate almost exactly the same program for the meeting of the costs of materials and services in schools that was introduced by the former Liberal government in 2000. What is particularly interesting about that aspect is that it seems that, over a period of years, the Labor Party has taken the view that the imposition of school fees and, in particular, the imposition of compulsory school fees that are lawfully able to be recovered by the school community—in particular, the school council as the plaintiff in those proceedings—is something that is quite obscene and quite objectionable, too, and quite outside the spirit of the provision of public education.

We have heard a lot about that in the last few years, in particular, at the time surrounding the debate of the original Education (Councils and Charges) Amendment Bill 2000. I might just refer to some of those debates, because they are quite illuminating in relation to what the position of the government was in opposition on which it seems to have had a marked turnaround in what is being presented in the bill tonight. On 14 November 2000, the Premier (the former Leader of the Opposition) said:

> The minister has not issued guidelines to ensure that parent contributions are related to enhancing educational outcomes rather than subsidising [what should be] the government's [own clear] responsibilities.

During her contribution to this debate, the member for Wright made a number of illuminating comments, I think, that were fairly reflective of her obviously passionate view on compulsory school fees. She said:

> . . . and let us not kid ourselves: this is not for one instant about improved educational outcomes for our children. This is about divesting responsibility. This is about passing the cost, the burden and the buck onto parents.

She also said:

> This 2001 school charges information pack is about enshrining school fees, not for items used by students but to pick up the cost which should be borne by the government.

Later she said:

> I make the point: this is the only state in Australia that has legislated to make its schools' materials and services fees compulsory.

Finally, she said:

> Since 1998, the government has five times now attempted to make fees compulsory. This is the Olsen government's recipe for user pays in education.

On 15 November 2000, the minister (then the shadow minister) made a number of comments in her contribution to the debate. But, in relation to this aspect, she said:

> Australia, obviously, is party to the International Convention on the Rights of the Child, and article 27 of that Convention says that primary education should be compulsory and free and that secondary education should be available and accessible with appropriate measures in case of need.
>
> Section 9 of the Education Act says that the state is responsible for primary and secondary education and that it should be provided free.

On the same day, she said:

> I refer the minister back to the crown law advice that the Hon. Rob Lucas, when he was the Minister for Education, put forward, which was basically that the Education Act precluded the charging of any fee associated with tuition.

She continued:

> All of this has been a manipulation of definitions in order to get around the principal act, which talks about free provision of education. It is an artificial manipulation.

The same sentiments were expressed in another place and supported by the Democrats. On 12 July 2000, the Hon. Carolyn Pickles, the then leader of the opposition, said:

> I thank all members for participating in what clearly is a passionate debate. The fact that most members believe so fervently in a free education system is an indictment of the way in which, over the years, we have let our education system gradually creep into semi-privatisation.

On 28 November 2000, she said, amongst other things:

> We have debated this issue so many times in this place that I will not take up the time of the parliament on it, except to say that the opposition is opposed to compulsory school fees.

On 7 December, in a further contribution, she detailed the fact that there were only voluntary payments in other jurisdictions in Australia. She said:

> The opposition has been consistent on this issue.

Further, she said:

> At least we are consistent. We have consistently opposed it on every occasion, and we will oppose it here today. We will oppose the third reading of this bill. I fervently believe in free education. I believe that free education is a right of all South Australian children in state schools. It is something that we have supported.

Later in the debate, she said:

> I do not want to see two classes of education in our state.

She said even later in the debate:

> It is not an act of hypocrisy. I will not be part of the next Labor government; I will be sad not to be, but that is the reality of life. If elected, it will be up to a future Labor government to espouse its own policies after the next election, and this issue will certainly be addressed. The government's voting for this measure at this time is just a political stunt. I am disappointed that it was moved, because I understood that in the past people on this side and on the cross

benches have consistently voted against a materials and services charge; and we will do so today.

The Hon. Michael Elliott, then leader of the Democrats, made it very clear and, indeed, as I understand the *Hansard* record, strongly opposed the introduction of compulsory school fees and considered that free education was a right for all and not a privilege for a few. His comments are in *Hansard* for reference, and I will not detail them.

At that point, within the year prior to the election, the Labor Party had made its position quite clear and quite passionately, and, indeed, the present minister had a very strong view in relation to what ought to be provided.

In November 2002, the government, as I indicated, simply was not ready to deal with this matter, and it proposed, therefore, an extension of time to enable the sunset clause to continue to its expiration on 1 December 2003. The minister, at the time of that debate, was very clear in her contribution on 20 November 2002 in reference to the adjournment and the extension of the sunset clause. She said:

> This will allow a comprehensive investigation of the most appropriate mechanism for levying of the materials and services charge in South Australian public schools to be canvassed alongside the announced consultation on the potential changes to the South Australian system of local school management.

She referred to section 106D and said:

> . . . the review clause, required the former Minister for Education and Children's Services:
> - to review the fee charging provisions in the light of the report of the Parliamentary Select Committee on DETE Funded Schools chaired by the Hon. Dr Bob Such MP.
> - to lay a written report of his review before parliament within three months of the select committee's making its own report.

Later in her contribution she said:

> The one year extension will give stability to the schools, and it will give the government time to conduct a review of the various options for school fees and what place they might take within a unified system of school financing. The review will take a broad canvas, looking at the options for both compulsory and voluntary contributions, and the boundary between what schools, and what parents, supply as materials and services incidental to education.
>
> This review will form part of the task of developing a single robust financial system for schools to which the government gave a commitment when releasing the Cox review.
>
> We also have had the timing very much in mind. Schools are now busy setting their 2003 budgets in the light of the Global Budget which the DECS Chief Executive has released to them.

How interesting it is that it was a time for dealing with global budgets in November 2003, yet here we are at the close of October 2003 and it seems that the same concerns that schools might have at the moment for the preparation of their 2004 financial budgets do not seem to have the same urgency. What would have happened if the government had utilised the last 12 months to provide the comprehensive investigation which the minister said she wished to undertake? We might have had an opportunity to have before us a report, a review, a statement or some kind of summary about what options had been considered or what comprehensive investigation had been undertaken and what were the various options that may have been able to facilitate the program which the minister outlined in her presentation.

If the government had taken this up, it would have provided an opportunity to identify what alternative options there are, or could have been. We would have been able to undertake some kind of financial assessment of the costs incurred in the collection of approximately $18.8 million a year in school revenue received from school fees; the cost of the provision of all the processes for the implementation of application, assessment and appeal of school card; the cost of the school card unit in the department; the cost to school sites and communities of SSO time; the cost of stationery and all the costs involved in issuing accounts and invoices for school fees. We would have been able to conduct some kind of investigation into whether the whole thing was just a farce. Perhaps it is. But we do not know, of course, because it seems as though the comprehensive investigation promised by the minister has not happened. There was every opportunity for it to have occurred.

The Cox report was provided to the government shortly before the minister made the statements in October. By the middle of this year, the government had issued, for publication, consultation and comment, a program for restructuring the Partnerships 21 scheme to reinvigorate—to use the kindest description—the local management of school formulas. The government took the view that all schools should be incorporated in it and they would ensure that they would be put in place for 2004. If the minister can be relied upon, in the statements made on 20 November 2002, it was this determination that was a necessary prerequisite to be taken into account when reviewing school fees. That is, the review would need to take into account the recommendations which would have flowed from the Cox review. She told us that. Therefore, it would be reasonable to suggest that by the middle of this year they would have presented to the education community what the government had in mind. Or, at least, it would have issued an invitation to the education community and the relevant stakeholders to make a contribution about what they felt.

What were the problems they were facing in relation to school fees, if any? Did they want the removal of the cap or did they want to suggest any other option? I became concerned that by the beginning of September there was no response from the government. Nothing had been placed on the table and there was nothing out for consultation. As the minister knows, I issued a number of press statements on radio, in September and October, calling on the government, in appreciation of the time frame faced, informing it that time was running out in relation to the review. We would clearly need to have either the draft bill for consideration or, at least, a discussion paper to be able to consider the way the education community would ask the government to go.

It seems that the government has been fastidious in ensuring that there are reviews and consultation on most matters. In the short time that I have been in this house, that has been an important part of this government's decision-making process. Yet, in this area, no such event has occurred. There was no draft bill, no invitation to contribute to a review and no discussion paper published. At best, there was some internal working party which, on the face of it, appears to have been born and died before the middle of 2002. Since that time, little else has occurred. I was concerned that there had been no response from the minister in relation to the government's policy direction. Of course, government members are entitled to present their view on the policy direction they wish to take, but there was nothing—absolute silence. So, I wrote to the minister on 11 September 2003, which she has kindly acknowledged but regrettably not answered. I will read the whole of this letter, because I do not wish there to be any suggestion that I have misled by omission. It states:

> Dear Minister,
>
> Re: Education Act 1972—Material and Services Fees
>
> Late in November last year, the Education (Charges) Amendment Bill 2002 was urgently rushed through the Parliament. The purpose

of this Bill was to extend the sunset clause associated with the aforementioned fee charging provisions to 1 December 2003. You explained, Minister, that the February 2002 election had interrupted the opportunity for the Parliamentary Select Committee to produce its report to the Parliament.

Importantly, we all noted that this extension 'will allow a comprehensive investigation of the most appropriate mechanism for levying of the materials and services charge in South Australian public schools to be canvassed alongside the announced consultation on the potential changes to the South Australian system of local school management'.

Professor Cox's report had already been delivered at the time of this debate, however the Government had not yet announced its proposals as a result thereof. Recently local school management proposals have been announced and a consultation period is underway.

During all of this I am alarmed to note that:

(a) there are still no Government proposals on the table for consideration by the education community and general public;

(b) I continue to receive concerned enquiries from important education stake holders that they have not yet been consulted; and

(c) there are only 80 days left to remedy this situation!

I therefore urge you, Minister, to present the Government's position for consultation immediately. There are clearly a number of options, including:

(a) that the current limited compulsory fee plus unenforceable voluntary fee arrangement continue, which clearly has significant limitations;

(b) that schools be granted authority to fix the amount and legally recover a fee determined by them (I note Hon. Bob Such favours this approach);

(c) that the Department provides basic materials and services to the schools and charge parents a fee directly, and have responsibility of recovery of the same;

(d) that the fee be abolished, which would require a further allocation in the Budget to schools, to cover basic material and service costs.

No doubt there are other options and combinations. Clearly the current situation is forcing our schools to meet the inevitable shortfall that is growing between actual costs and the amount recoverable from parents.

I look forward to your early reply.

Yours sincerely

Vickie Chapman MP

As I say, regrettably there has not been a response to that correspondence. I do not profess for one minute to rely on my limited experience in relation to materials and services charges in schools, or to rely on the anecdotal information that has come to me in relation to the best options. The purpose of this correspondence was to call upon the minister to do what we say she clearly indicated she would do, and that was to present to the education community in South Australia and the general public an opportunity to get on with a comprehensive investigation—as she described it—and actually come up with some answers. I suggest that it would have been reasonable that there be an external committee but that, even if there were only an internal committee, sufficient information be published so that the education community would have an opportunity to make an informed contribution to the options available to them.

In the absence of their being no confirmation from stakeholders with whom I had discussions, and their growing concern as to lack of any consultation, at the time of having a briefing with representatives on invitation of the minister, I received no report, which I had asked for. I can only assume that there is no working party report. There is no summary of the options that may or may not have been considered. Correspondence I received yesterday in response to my request on Monday states:

Stakeholders consulted as part of the review into materials and services charges included. . .

and then there is a list, and it includes (what I could describe respectfully as the usual suspects in relation to the education community) important representative bodies of the various interests of parents, principals, students and the like.

The list included the South Australian Association of State School Organisations; the Australian Education Union; the Public Service Association; principals' associations, and I am not sure what that means, because later the list includes South Australian Secondary Principals' Association and South Australian Primary Principals' Association. So, if there is some other principals' association of which I am not aware, perhaps that is under the principles' associations that is otherwise listed there. The list also includes district superintendents who, of course, are employees of the department; South Australian Association of School Parents Clubs; School Administration Officers; the GST team (DECS), which I presume to be a team of personnel in the department; and project officer of the socioeconomic disadvantaged.

Again, I have just made the assumption that that is someone in the department. Also included in the list are global budget staff, call centre staff liaising with parents, (again, internal), the Social Inclusion Unit, the Department of Treasury and Finance, Global Budget Unit (DECS), focus group consultation sites (district) and leaders. On first reading, that was a very reassuring list because, as I say, they were the representatives of important organisations in the education community one would expect would have been consulted and who would have had an opportunity not only to put their position but also to be able to make a submission, if they wished, to the bill as presented by the parliament.

Before I come to the actual position as we understand it, and the minister, no doubt, will identify if this is in any way erroneously presented, I just highlight that this bill was introduced, notwithstanding calls from you, Mr Deputy Speaker, as member for Fisher, and from me (perhaps others, but at least I know of those two) calling on the minister to present the material for consultation. On Wednesday 15 October this bill was presented for its second reading. Except for a ministerial statement provided by the minister shortly prior to that, that is the first time the government's position was disclosed to the parliament.

Certainly, it was the first time that I had heard about it and, as I appreciate, the first time any of my colleagues on this side of the house had heard about it. That raised some concern, especially as it was proposed that this bill should be debated, first, yesterday and then being adjourned by the minister to today. In an unprecedented way, I suggest, without any identifiable reason why this debate had to be argued this week, the minister elected to call upon the parliament to debate this measure, first, yesterday and, secondly, today. Six and then seven days from the date of the issue there was a notice to the parliament. As I understand precedent, that has not been the standard procedure. Indeed, Don Dunstan, the former premier of this state, who should be well known to the minister, set the precedent of a bill being introduced one week, allowing it to sit for the whole of the next week at least and debating it the following week. If the minister has not heard of that, and she has been here a long time, she perhaps should read the 1970s *Hansards*, because she will find that that has been the practice for over 30 years in this parliament. Furthermore—

Members interjecting:

The DEPUTY SPEAKER: Order! The minister will come to order and the member for Giles will also come to order.

Ms CHAPMAN: I inquired of the minister on Monday whether there was any particular reason why this bill had to be debated urgently. I am not completely ignorant of the fact that there can be times—and, in the short time I have been here, there have been such times—when this parliament, for very good reason, is called upon to deal with matters on an urgent basis. Very often, in those circumstances, the opposition agrees with the government and facilitates the quick passage of legislation through the parliament to cover the contingency of the day in relation to that bill.

On this occasion, apart from the fact that the minister and I had both agreed that there was a sunset clause that expired on 1 December 2003 (in about six weeks), no other basis was disclosed by the minister as to why this bill had to be debated this week—contrary to the precedent—rather than the following sitting week, which would be 10 November. If it had been left until 10 November, it would have complied with the usual practice of this house and it still would have given plenty of time for the matter to be debated—

An honourable member interjecting:

The DEPUTY SPEAKER: Order!

Ms CHAPMAN: —fully and appropriately in the month of November. Of course, there would have been the opportunity for the other place also to fully deal with it. I do not know why the minister required it to be debated in six or seven days, especially when she has had nearly a year—and, if you add the eight months before, it is nearly two years—to deal with the matter. She would also have had her comprehensive investigation that the government indicated was the position it wanted to take.

The government introduced this bill last Wednesday and expected us to debate it. The problem with that, in the absence of there being any kind of report presented, is that it adds even more necessity, I suggest, for the opposition to consult with stakeholders. Seeing the government has not done its work, it is even more important that the opposition do just what the government has failed to do. It is important that we have appropriate time—at least the usual time of nearly a full week—to consult with schools and educational institutions and other relevant bodies regarding their views in relation to this legislation.

The minister cannot deny that this was a piece of controversial legislation in the year 2000, and it is still an issue which, from the conversations I have had with other members, they feel passionate about. She knows full well that this is the situation and yet she insisted that this matter be dealt with yesterday or tomorrow. I will just go back to where the position stands at the moment. We received from the minister's office what, on the face of it, is a reassuring and comprehensive list of stakeholders that have been consulted, dated 21 October 2003 and signed by some indistinguishable person on behalf of David Travers as Director of the Office of the Chief Executive. It also indicates that this is only part of the review. I do not know where the rest of it is, but it lists the stakeholders who were consulted. So, we have had 24 hours in which to clarify the position in relation to some of these stakeholders.

I will give a summary of the information that has been provided to me in relation to consultation in the comprehensive investigation which the minister proposed would be undertaken when she spoke on 20 November last year. I will start with the South Australian Association of State School Organisations. Mr Lee Morgan, the Executive Officer of that organisation, which represents public school councils around South Australia, told me that he spoke with the minister on the telephone last Tuesday, 14 October, when he advised the minister of his verbal response to the proposed legislation. He told me that no written submission was ever asked for or given, and that prior to the discussions on the issue back in November last year his view was that the association's position was well known to the government. He told me that on the same day he was sent a copy of the ministerial statement, news release and the amending bill. This, on the minister's proposal, was effectively to be six days before her initial proposed debate on this matter.

Mr Morgan indicated to me, for the purposes of dealing with the substance of the association's position, that he was pleased that the voluntary and compulsory distinction was being removed and that it was indexed. I was interested to note that, because he seems to be under the misapprehension that the compulsory and voluntary distinction has been removed. He might get a bit of a shock when he realises that, in fact, the legislation does not do that, but it does make it clear what he had hoped for. And he was pleased that it was indexed. Of course, if the government had allowed the indexation to take place under the previous act he would have known that it has always been indexed.

Mr Morgan confirmed that the association wanted the cap removed, and wanted school councils to determine that. However, in addition, he indicated that he was unhappy with the issue of per capita funding, which means that students in advantaged areas are receiving less state government funding than those in disadvantaged areas. He indicated a figure of some $1 800 per head for a student at Elizabeth-Fremont and some $834 per student at Adelaide High, as an example of that disparity.

Now, there could be a very good reason for that, and I do not want to get into an argument about why there is disparity between the funding arrangement to provide the extra benefit to schools and students in disadvantaged areas, to use his language. He simply highlights the need for the cap to be removed to enable those schools which are considered to be in the less disadvantaged areas to be able to meet expenses, which they are clearly not able to do, and have no hope of competing with the relatively reduced funding, compared to other schools. They, of course, are the schools that are not in the index of disadvantage 1, 2 or 3: they are in the 4, 5, 6 or 7 category and, basically, they get nothing. If you are in the lower category the government has, from time to time, given extra benefits—counsellors and the like, extra primary school teachers, etc—to those suffering significant disadvantage. Again, I do not want to get into a debate about that, but I would like to highlight the fact that those in the least disadvantaged areas have a cap, have no extra money, receive no extra services or benefits, and they are not even allowed to charge their local community—even if the local community is prepared to have a compulsory arrangement.

The government may say in that situation, 'Well, that's alright—they can just issue a voluntary payment arrangement.' Sure, they have that option, but we know that in the voluntary payment arrangement—even with the government's proposal—the voluntary parent community will sign an agreement that those who are unwilling or unable to pay will not do so. So, it will again fall on some in that parent community to meet all the costs. That is the position of SAASSO. They made it clear to me, at least. Nowhere have I seen from the government—because it has not presented anything—anything to indicate what its position maybe. Importantly, for the purpose of this exercise, the first

consultation had about this issue, the government's position, was on Tuesday last week.

I now move to the South Australian Primary Principals Association. Leonie Trimper is well known for the excellent work she does in representing the primary principals of South Australia. She has confirmed that she had a phone conversation during this month with the minister on this issue and that no written submission has been presented or sought. In relation to the substance of the matter, she took the view that what had been announced by the government—whether it is translated into the legislation is yet to be seen—would be an improvement because she wanted it indexed. She did not like the voluntary distinction. Sadly for her, she may also have been seriously misled as to what will be translated into the bill before the house. Even if the government has an intention to remove that distinction, I suggest that has not been achieved by the drafting of this bill. She also raised concern about the invoicing and would want to look at working with the department on how explicit the description of fees needed to be on the invoicing for schools. This is a practical example of what the school administration staff must be trained on; what they must be able to produce for parents and be able to explain to parents in the guidelines which have been announced by the government. They have not yet transpired, but they are on their way. She raises important issues that need consideration.

Then the Social Inclusion Unit was listed. They say that they have not put in a submission but that they were consulted. They did make a written comment—as I say, they were not asked for a submission—which was provided on 29 September this year. They would not give us a copy. We are not allowed to know what they said. They will tell the government what they want to do, but we are not allowed to know. Then we have the Public Service Association, which is an important union in relation to the consideration of funding in the education area because a number of their members make a valuable contribution to the education industry and community. What has been reported to me is that they were not aware of the bill. Certainly, they had not seen it. They were not aware of any consultation about it.

Then we have the AEU. The Australian Education Union is a well-known and important stakeholder in the education industry. Overwhelmingly, the employees in our public schools, particularly the teaching community, are significant contributors to the Australian Education Union. It is a very important representative body on behalf of those employees. According to the acting president, Chris Waugh, she did not believe the AEU had been consulted at all. She was going to inquire whether someone else at the AEU had been spoken to. You would imagine that the AEU would have a very clear view and would want to be consulted in relation to this matter, but it seems that we do not have anything from them. Certainly, according to the acting president's report to my office, she was not aware of any consultation.

Then we have the Secondary Principals Association. They are also on the list. Again, Mr Bob Heath is a well-known identity in relation to his position with the Secondary Principals Association. He told me that a group, including his association, discussed the issue at their meeting at Flinders Street last Friday. Prior to that meeting he had spoken to the minister about a month before, and to Steve Marshall, who is currently the Chief Executive Officer of the Department of Education and Children's Services. No written submission had been called for or given. At that stage, as of yesterday, he had not seen the bill.

Then we have the South Australian Association of School Parents Clubs. As members might appreciate, that is no doubt a very important representative of parents' clubs in the education community. Ms Janice Zerna advised that she could not recall having been contacted this year about this issue at all. She had not seen the bill as of yesterday. She sent a letter in May 2002 to the then executive officer of what was called the Resources Working Party in which she set out fairly clearly the views of the SAASPC. I will refer to the substance of it. What is important for the purposes of this alleged consultation is that there clearly has not been adequate consultation with the interested groups—if at all, with some of them. It is very concerning that what should be presented to me yesterday, in contemplation of a bill which at that stage was to be debated yesterday but is now being debated today, was an assertion that there had been a review, and at part of the review all these people had been consulted.

For the record, in relation to correspondence in May last year, the parents clubs' organisation made it absolutely clear that it considered that there should not be any compulsory fees or materials or service charges. In fact, if I am reading its submission correctly, it holds that there should not even be any voluntary payment. However, in any event, it took the view:

> . . . it is the responsibility of government to ensure that no school in its system becomes dependent on an external source for funds for its operations, and that the distribution of resources between government schools is equitable
>
> Curriculum content and school policies must not be determined by the interests of external bodies, nor must external bodies obtain undue influence on a school or system as a result of sponsorship or other links

It repeated in its correspondence that it was totally opposed to the introduction and continuation of the compulsory materials and services charge and rejected the tendency for governments to blame parents when there was a shortfall in the finances of a school. It was particularly concerned about two aspects of the introduction of legally collectible fees in South Australia. First, it was concerned that fees are set by regulation and are not the subject of parliamentary debate and can, therefore, be increased by the government as it desires. I do not know that that is such a fair criticism, but nevertheless that is a statement it made.

The second area of concern is the consequences for students if their parents or care-givers persist in non-payment. If that is taken to the fullest extreme, the organisation believes that it would result in imprisonment for the parents. Again, it may not have that right but, nevertheless, it makes a very passionate plea in relation to that and raises the concern of schools effectively being called upon to sue members of their own parent community. It calls upon the government to take into account its concern about school councils being used as debt collectors. Although it did not support the imposition of compulsory fees, it considered:

> If the government wants to continue with compulsory fees then DETE—

as it was then known, because that was so long ago—

> centrally should employ the debt collectors.

It then repeats its position very clearly. It says that it totally rejects the policy of legally collected school materials and services charges. At the very least, these stakeholders, not to mention the hundreds of schools and people involved in the school councils, parent community, teaching community and SSOs who have to ring up the defaulting parents—all the people involved in relation to school fees in the education

community, not the least of whom are the parents who have to pay—deserve the opportunity to have what was promised, that is, a comprehensive investigation, to use the minister's description. They have clearly been denied that, so it is inappropriate for this matter to be called on for debate at short notice. I foreshadow that I will introduce an amendment to insert a sunset clause to provide that the provisions of section 106A expire on 1 December 2005. That will give this government two years—because it is quite clear that it needs a lot of time—in which to properly investigate this matter. There may be a number of different ways in which it can do that. Perhaps there will be a working party properly constituted and a call for submissions.

An honourable member interjecting:

Ms CHAPMAN: In response to that interjection, as we have not had the first one, that has created the problem with this one. It may be that it is appropriate—given that the government has failed to do properly what it said it would do—for a select committee of this house to get on with the job because, when the former Liberal government introduced compulsory fees, members opposite called for a select committee to report back to this parliament. I am not an expert on which is the proper course to take, but in the next 24 hours I hope to be able to continue to consult on what may be the best course of action to properly review this matter. Clearly, we cannot rely on the government to do it because, even when they said they were going to do it, we could not rely on them. They have even claimed that they have done it when it is clear that they have not.

I foreshadow a further amendment. If, as this bill proposes, the existing regime continues, then there ought to be (as the Parent Clubs Association proposed) the provision of a service by the department to enable the debt collection process to be undertaken outside of the school community. My amendment will provide that the director-general—unfortunately, we are still using the old language because this bill seeks to amend an act which is 30 years old and we have not seen a new education bill yet; in fact, we may never see it—must make services available free of charge to school counsellors for the recovery of outstanding materials and services charges.

If the government is genuine about ensuring that children are protected, regardless of the conduct of their parents or their capacity or willingness to pay—if they are not able to have these materials and services provided if the fee is not paid, and if they are not eligible for the school card (notwithstanding the fact that the act provides that the school must supply the necessary materials for them to undertake their core curriculum work; and that is to be retained in the act)—they should not be faced with the potential indignity of their parents being sued by their local community and fellow colleagues. Usually, these are other parents, because the school council is the plaintiff in such proceedings.

Whether it is a letter of demand, a reminder letter, a debt collection notice or a summons from the local magistrate, it is not hard to imagine how that information would soon filter through the school community, and it would be difficult to ensure that children are protected from the embarrassment and humiliation or concern that they might feel on behalf of their parents or as a result of some comment by their fellow students. So, this is an important amendment which I think should be considered in the light of the fact that the government intends to continue with the current system.

Regarding the other options, I simply say this: I do not know what is the best answer to how to provide for materials and services fees. Clearly, this is something to which (either directly or indirectly) parents have contributed throughout the history of education. I cannot comment on whether or not it is appropriate for them to continue to do that because, as the government has not done its homework, we do not have anything before us about what better options may have been considered, costed or investigated for their viability or feasibility. Nevertheless, in the absence of that, if there is to be a sunset clause and there is to be some enforced review of this issue, at least we would have an opportunity to examine it and identify what are the best options.

I note that section 106B sets out the quarantining of obligations in relation to certain processes that apply to international or fee-paying students. I am told that in South Australia, at any one time, about 9 000 overseas students attend our universities and schools. They are full fee paying students, either at university level or at schools. Some of them are private schools and others are schools in the public system. I have a number of institutions in and around my electorate which are the host to very welcome international students, and I refer particularly to the Norwood-Morialta school, Glenunga International, Charles Campbell, Marryatville, and Seaview, which is further from electorate. I understand that those schools have about 80 per cent of all the international students who are in public schools in South Australia.

Those schools provide a very important service and each student pays something like $9 500 a year to the department. The debt is recoverable by the minister under section 106B, and the processes in relation to that are quarantined from the usual materials and services charge. It seems that the department has no difficulty in having a service facility to invoice, secure, receipt and enforce, if necessary, the recovery for the fee-paying students—thousands of them—so there ought to be some capacity in the department to extend that service to schools. I hasten to make clear, if it is not already, that this is to provide a debt recovery facility, not to receive the funds themselves.

I turn now to the other states. If a review had been undertaken, matters such as whether other states have a better system, one that is much friendlier towards the institutions and the parent community, especially in avoiding litigation, could have been taken into account. The other states seem to have varying ways in which they deal with this matter, and none have had the difficulty that South Australia has had with parents who are unwilling or unable to make a contribution. The Hon. Carolyn Pickles' contribution in the debate on the 2000 bill overlooked the fact that Western Australia has a compulsory course charge for students in years 11 and 12. They have caps and they still have a voluntary contribution, if I can describe it as that, within a prescribed maximum of charges. Western Australia is the closest to having a compulsory and enforceable component in relation to some of its students, namely years 11 and 12.

New South Wales has voluntary contributions. Interestingly, it operates under a code of practice. I understand that it still applies, and it has been operational since 1995. That code of practice details a number of aspects of behaviour and decision making by persons in charge of this area to ensure a number of things. Apart from there being proper consultation for parents on what the fees should be, students must have access to all the school curriculum, and parents and guardians must be made aware of the financial assistance available and the means of access.

The dignity of all must be preserved in all matters relating to voluntary school contributions; and principals will ensure that no student or family suffers any discrimination or embarrassment over voluntary school contributions; and so on. I was interested to read that, if we had a review process, an important aspect to consider would have been whether or not that was a meritorious inclusion in the guidelines. It may not have been of any use, but we have not had the review to find out whether or not it was a valuable option.

Victoria has voluntary contributions to their school materials charges. Tasmania has an interesting levy system which they have been operating since the 19th century. I will not traverse all the detail of this, but I am happy to provide this information to whatever committee might look at this in the future. I certainly hope the government will consider that amendment. Queensland, the ACT and the Northern Territory also have tuition fee/materials charge type fees which are all on a voluntary basis.

The other matter I wish to raise is—whether or not we have school fees; or if we have school fees, whether they are compulsory or voluntary; or if we have school fees, who should enforce them, or what provision should be made for materials and services to school students if there is no fee—what regime would operate as an alternative program? In addition to all that, I suggest that other aspects need to be considered, which I highlight by one example, that is, the preschool situation.

At the moment, we have a situation where a guardian (or an authorised person) who has a child in a childcare facility or who attends a family day care service is legally liable. Up to a certain cap, whether it is under the current administration or what the government proposes, a parent or guardian of a child attending school has a legal liability to pay a materials and services charge from reception to year 12. Interestingly, with preschools, because children are below the legal school age (often they are four to five year olds), they do not have a compulsory materials and services charge as we know it, and therefore they are in a very difficult position because they cannot enforce the recovery of those fees.

I have received a submission from the Waikerie Children's Centre Governing Council which is concerned about the fact that their preschool finances reveal that about 20 per cent of all their preschool accounts remain unpaid. This just highlights an inadequacy and a matter which ought to have been considered in any review and included in any legislation in relation to this matter. It concerns me that those sorts of issues have not been addressed and that there has not been an opportunity to do so. Apart from hearing from those who agree, disagree, or who think that they have better ideas, there has been no avenue to address that aspect and other aspects which require consideration.

I am interested to note that it is Universal Children's Day today. I think that we on both sides of the house would agree on the importance of early intervention in relation to this age group, that is, the preschool age group (if you like, the zero to 8 year olds—it includes some of junior primary school years), and the importance of ensuring that we appreciate that early childhood development and experiences have a direct impact on their future educational career and health outcomes. Getting it right in the early years will help many to avoid reliance on welfare, substance misuse and becoming entangled in the criminal justice system. Clearly, today's children are our future parents, workers, consumers and taxpayers.

I was disappointed to note that today the minister announced the contribution of some computers to preschools. I think that is rather a token contribution. Her intentions in wanting four year olds to be computer literate may be good, but I think it is a gross waste of resources, frankly. Four year olds ought to take every opportunity to be out there actively doing something, rather than sitting in front of a computer. In any event, the situation is that here is a government that seems to want to be able to give one computer to every preschool in South Australia, yet will not even cover them in a situation where they do not have a recoverable materials and services charge. These are the real issues that face preschools in this state, not whether or not they have a computer that might have to be shared between 20 or 25 students.

I think it is of concern that these other aspects have not been incorporated, and we really must take the opportunity to have, in the next two years, a comprehensive review in relation to these and any other issues that necessarily need to be raised if we are to seriously look at (to use the minister's words) the options in relation to this matter and, indeed, to look carefully as to how that might fit in with the structure that she proposes in relation to local management of schools, which is to commence operation at the beginning of 2004. It may well be that, because we are introducing a new system that will be effective from next year, the review of this matter into next year may be opportune, because we will also be able to take into account that a new structure has been imposed and will be under way and will be able to form part of that assessment.

I reaffirm my disappointment at the haste with which the government has dealt with this matter. I wish to quote what the then shadow minister said in the debate on 14 November 2000, as follows:

> Why rush to implement these changes on the say-so of a minister who says 'Trust me'? These changes, once they pass through this parliament, become law. . . and all on the basis of some vacuous argument about the need to rush these through.

In the same debate she stated:

> . . . is this house really saying that we do not have time to deal with these amendments properly? This is a very poor attempt; it is a rush job. After two years of public consultation and promises of a draft bill that would be available for consultation in the schools for six weeks, what we get are changes rushed through the parliament. The least we owe to the people of South Australia is a proper scrutiny of these amendments. . .

I will deal with the other amendment issues in the course of the committee debate (which I understand will proceed tomorrow). The opposition notes the government's determination to simply—

The Hon. P.L. White: Do you support the bill or don't you?

The ACTING SPEAKER (Mr Scalzi): Order!

Ms CHAPMAN: —proceed with what was the Liberal proposal, with minimal amendment, and with some amendments which I will highlight during the committee stage, which I think are either unnecessary or defective in achieving what is necessary and, accordingly, I conclude my comments in that regard.

The Hon. R.B. SUCH (Fisher): I will be relatively brief. This matter has been a difficult one for schools. I am on two high school councils, and I also try to attend many, if not most, of the primary school council meetings. This issue of materials and services charges raises its ugly head at almost every meeting, and a lot of time, money and effort goes into

trying to deal with the existing provisions, and a lot of angst is involved in seeking money from people who have not paid. We have people who object to contributing on ideological grounds. I think it is fair to say that education has never been free, in any absolute sense. I know that people quote the United Nation's Universal Declaration of Human Rights which, interestingly, is more dogmatic than the Convention on the Rights of the Child. Article 26 of the Universal Declaration of Human Rights provides:

> Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

When you come to the Convention on the Rights of the Child, it is somewhat more equivocal. Article 28 provides:

> States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
>
> (a) Make primary education compulsory and available free to all;
>
> (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

As I indicated, some members of the community quote those references as justification for not having to pay anything towards the education of their child or children. The reality of the real world is that there is no totally free education, and that is something with which, I guess, the community has to come to terms.

The point has been made by the member for Bragg and, indeed, I have made it publicly myself, that, if you abolished the current materials and services arrangements, it would be less than a $20 million cost to a budget which exceeds $7 000 million. Of course, the reality is that this will not happen, certainly not in the short term, when budgets are under pressure. Even if the government abolished these charges, I would suggest that some parents would still want an additional amount. So, I do not think it would totally resolve the issue of materials fees and charges and the related financial aspects of running a school.

The point put to me by many of my school councils is that the current financial provision that is made possible through the current law does not provide sufficient funds for what the parents want for the children in those schools, and is not realistic in the context of a modern society such as ours. I accept that, overall, my electorate is probably better off in financial terms than some others. Obviously, this does not apply to all the people in my electorate but, in general, if you compared it to some other areas in the state, you would have to say that the average level of income and so on is higher. So, I strongly support additional supplementary assistance for schools that need that help, and I have no problem whatsoever if the government wants to give additional resources to areas and schools and children that have that greater need; I strongly support that on equity grounds. However, in my electorate, parents and governing councils say to me, 'We would like to charge more, and the parents want to do it, but, at the moment, it's not feasible or realistic, given the artificial dichotomy between voluntary and compulsory fees and charges.'

What we have is some people who choose not to pay the so-called voluntary component. The introduction and the highlighting of that dichotomy was very unfortunate, because it meant that some people took the easy way out and said, 'If it is voluntary, I'm not paying it.' That is very unfair to those parents who choose to pay. I note that this bill gets rid of that artificial dichotomy, but I do not believe that it really addresses the issue in the way that it should.

I believe that this matter has been left rather late in the piece. For a long time, I have been arguing (and did so last year) that, in regard to schools needing to set their fees, send out book lists and so on, the end of the year comes very quickly. Here we find ourselves, once again at the midnight hour, trying to sort out an issue that I do not believe has been fully or adequately canvassed in terms of options or opportunities.

I believe that the bill is a step forward. I have been uncomfortable for several years with the legal provision with the legislation. As I indicated before, I do not think that it will fully resolve the issue, but there is merit in looking at it in detail. Sadly, the select committee, on which I served, was unable to report on this issue because of the calling of the election last year. However, I think there is merit in a thorough and detailed examination of this issue and in looking at other situations in other states and, indeed, other countries, to see whether we can come up with an even better model than this bill suggests.

What I intend to do by way of amendment, and what the amendment will do, is allow schools' governing councils to charge more than would otherwise be the case in the bill as it stands and as presented to us, with some necessary safeguards; one is that it would need the approval of the Chief Executive. The schools also would have the right to recover what is owed to them as a result of the increased contribution sought from parents.

In discussion with the member for Mitchell about how we can improve the foreshadowed amendment (and I do not want to put words into his mouth), I understand that he will add to the amendment in relation to requiring full and adequate notice given to parents if the school council wants to go down the path of requiring or seeking more from parents—indeed, to the point of asking parents, by way of a survey, or polling, or whatever you want to call it—so that there is an indication that a majority of parents in that school would support the increased contribution.

I think that is fair not only in terms of being democratic and involving the parents in consultation, but I think that it would provide an indication to the Chief Executive Officer that, if the majority of parents in a school have, in essence, signed off on their willingness to pay more, it would make the process a lot easier for him to make a decision about whether or not the increased fee was warranted.

I understand that the member for Mitchell will be proceeding along those lines, and I commend him for that. I will certainly support him in regard to that measure. I think what we have before us tonight is a step forward. It is late, which is unfortunate, but we have to deal with it because schools need certainty and they need to finalise their arrangements for next year. They want to be able to issue book lists. They have parents inquiring about enrolment and they want to be able say to those parents, 'If you come to this school, this is what will be required in terms of a financial contribution.' So, the sooner we can get this matter through the parliament, hopefully with some improvements as a result of amendments, the better off we will be but, more importantly, the better off parents and schools will be in terms of knowing what the rules are and, ultimately, it will be in the best interests of our children, which is what our education system should be about.

So, I support this bill. I will be proposing some amendments and look forward to the amendments from the member for Mitchell as well. As I have said, I trust we can get this matter resolved as quickly as possible but, in the longer term, have a more in-depth look at the best and fairest system and whether we can get rid of these fees altogether, and what is the best alternative to ensure that we have a fair and equitable system in our state schools for parents and the fees that they are required to pay.

Mr WILLIAMS secured the adjournment of the debate.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

Adjourned debate on motion of Hon. J.D. Hill (resumed on motion).

(Continued from page 593.)

The Hon. K.O. FOLEY (Deputy Premier): I move:

That the earlier motion moved by the government that the member for Napier be a member of the committee be amended by deleting 'Mr O'Brien and inserting in lieu thereof 'Mr Hanna'.

The DEPUTY SPEAKER: I take it that the amendment is to replace the member for Napier with the member for Mitchell.

The Hon. K.O. FOLEY: Yes, and all I can say is that there was a misunderstanding on the government's side and we have moved speedily to rectify that situation. I would now like to see—

Ms Bedford interjecting:

The Hon. K.O. FOLEY: Absolutely. And I would be pleased to see the committee convened as soon as possible so that it can get on with its very important work.

Amendment carried; motion as amended carried.

ADJOURNMENT DEBATE

The Hon. K.O. FOLEY (Deputy Premier): I move:

That the house do now adjourn.

Ms BEDFORD (Florey): Today I had the honour of attending the funeral of Clarice Esme Myrtle Dobson OAM. I came to know Esme, as she preferred to be called, through my association with the Calisthenic Association of South Australia. Like me and the member for Adelaide, Esme was a patron of CASA, although she had a greater and longer attachment to the association.

This remarkable lady was born at Parkside on 24 August 1914 to Myrtle and Reg Culley. She was the eldest of three daughters. She was educated at Parkside Primary School, where she was what could probably be described as dux, before attending Unley High School, where she completed six subjects at intermediate level. Esme showed great aptitude in maths and bookkeeping, and secured a scholarship to a business school, where she obviously excelled. I believe that she was never without work. Esme married William Thomas Ernest Dobson on 13 May 1939, after which she and Ern began their life together.

Meeting Esme, as I have over the years during performances and competitions at the Royalty Theatre, I had only a brief insight into the extraordinary aspects of this unassuming and, obviously, very strong willed woman's life. I knew that, as with a life member of any club, she must have had an interesting story to tell. Sadly, I was able to share only one lunch with her and the member for Adelaide at Parliament House, where we began to know a little about how Esme worked.

However, it was today that I saw and heard from the many relatives and friends gathered at the Heysen Chapel and learnt from their stories how remarkable she was. As a young girl, Esme was active in many sports. She started gymnastics in 1924 at the Parkside Methodist Church. In February 1928, a Mr A. Black MBE convened the first meeting of churches in an attempt to form an association to introduce competitive physical culture into this state.

Esme competed in competitions with the Parkside Girls Club and worked there until 1939. In 1937, when herself a member of the State team, she was elected as the honorary secretary to the Combined Church Clubs Physical Culture Association. Thus began her dedicated involvement in the administration of this wonderful sport. In 1946 Esme started her own callisthenics club at Westminster Methodist Church Hall, Price Avenue, Lower Mitcham and remained secretary of the association until 1996. This was an unbroken, total service of almost 60 years in what eventually became known as the Calisthenic Association in 1969. The sport of callisthenics has thrived in South Australia. It was in the 1950s that the modern version of callisthenics, as it is today, began.

At this point I would like to mention what has probably sparked my interest in the sport. Apart from my admiration for anyone who can make eight or more people do the same thing together—happily to music and in beautiful costumes to keep the audience's attention—while not a callisthenics girl myself, I had a close encounter with physical education in my primary school life in New South Wales, where I participated in the Bjelke-Peterson method that was in vogue in Catholic schools in the early 1960s. I am not sure if Catholic schoolgirls in South Australia did it, but we certainly did in New South Wales.

This exposure manifested itself in mass displays of movement to music, usually with a coloured rod or pom-poms. So, in that small way I have always had a fondness for, rather than a long history of, participation in the sport.

Everyone involved with the callisthenics association when Esme was involved speaks highly of her organisational skills. With 60 years of service, that is nearly everyone ever involved in the sport, for any length of time in South Australia. She has been described as a super-efficient woman who held down a full-time job while looking after her family and supporting hundreds, perhaps thousands, of young women to succeed in the sport of callisthenics.

I am told by her close friend and former President of CASA, Mr Graham Richards, who delivered a eulogy, that Esme had a marvellous memory. Her son-in-law said it was photographic. She could recall, in amazing detail, information about many of the girls involved, including their maiden names, their married names, and the names of their children, mothers and close friends.

Graham said that Esme did not suffer fools lightly and always did what she believed was best. Esme had a wicked sense of humour and had a lot of fun in her. She loved her family, was generous with her love and time and never lost sight of the important things in life. She was dedicated to, and promoted callisthenics, while still being devoted to her family.

In her family life, Esme and her husband Ern shared many happy times and, unfortunately, many tragic ones. They had five children, three of whom, sadly, passed on before them. A son died from meningitis at the age of five and a daughter

was stillborn. Another son died after a motor accident and was about 12 at the time of his death. Esme's family has asked me to put on the record that despite these setbacks she was a wonderful mother—always there and listening, as well as being very committed to her family. Stories abound of her roast lamb, rice pudding and her legendary Christmas puddings. She was a great source of strength and comfort to her own children and her grandchildren, who shared special insights into their relationship with her at the service today. They admired her involvement in the Calisthenic Association and were proud of her achievements and dedication to the sport. I am not sure how she fitted everything into what was obviously a packed life.

Her brilliant career highlights were many, several of which I would like to mention. In 1965, she was awarded Life Membership of the Calisthenic Association of South Australia. In 1978, she was awarded an AOM deservedly for her services to the sport. In 1987, she was feted at a testimonial dinner by the Calisthenic Association for 50 years of service to the association. In 1990, she was recognised by SA Great with a community service award: she took her grandson to that dinner. In 1994, she was given the honour of having her name placed on a stone at the Pines Hockey Stadium.

She was a one-eyed supporter of the Sturt Football Club and the Adelaide Crows. The Crows theme song featured at her service today. Her niece, Sandy, played the organ at the service and, in a moving and fitting tribute, two of Esme's pupils, now older ladies themselves, performed a club routine to the theme from *The Merry Widow*, obviously a song with great connections to both Esme and the two ladies who performed. Trips away to competitions were a special part of the year for Esme and her family. Another niece, Anne, told me of waving madly to the train that was taking the teams to Melbourne or Ballarat—a tradition that continues to this day, although the girls travel by coach or aeroplane now.

As a mark of respect, the CASA state senior team formed a guard of honour before and after the service, which was attended by officials of the association and many people associated with callisthenics. This team will be travelling to Ballarat for the Royal South Street competitions this weekend and I am happy to be able to accompany them for their performance on Saturday. I wish them well for the competition. This will be the culmination of the year's work for the girls, as they have been chosen to represent the state in this elite event. It is a coveted honour for which they fight very hard. The teams in all age groups that go to Ballarat each year during October work hard to represent South Australia. Calisthenics is as strong in Victoria as it is here. I can report to the house that the rivalry is as strong in this sport as it is in cricket, football or any other sport. There is that strangely satisfying feeling of knowing that a team from South Australia has proved that it is better than a Victorian team on the day. As I have highlighted before, the effort that goes into putting a team of girls into this sort of competition is significant and it happens at the state club level prior to selection for a state team. Calisthenics is a demanding sport, little recognised for the commitment and discipline that it requires.

As I have travelled with the state team to the national competition, I have seen the same level of commitment in other states, where teams are supported with the same sort of dedication. This is a phenomenon that I have not witnessed at such a level in any other pastime. It inspires that sort of dedication in those associated with any callisthenics, girl or boy, and I am able to say that I have seen only a handful of boys involved in the competitions in the six years I have been a member. It is that sort of family commitment that I witness whenever I attend a performance, as extended family members are always in the audience. Fathers are involved in setting up backstage and transporting props, while mothers spend many hours creating the costumes that are necessary for each of the various disciplines or sections of the competition—marching, rods, clubs, aesthetics and spectacular song and dance numbers. Girls also compete in what are called 'graceful solos' and the hours of training that are necessary are the equivalent of those put into any sport similar to that of top level gymnastics. Calisthenics fosters a confidence that sets the girls apart. Many of the Rock and Roll Eisteddfod teams rely on performances of girls trained in callisthenics.

The South Australian Drill Team is a world champion marching team and these girls are drawn from CASA. They starred at the Edinburgh Tattoo with the band of the SA Police. The Calisthenic Association also starred at the recent Sensational Adelaide International Police Tattoo. The organisation that we see today started from the work done at the time Esme Dobson became active in the administration of this sport. We owe her a great deal and the esteem in which she was held was demonstrated today as we said farewell to her. To have given so much for so long is admirable and she deserved the recognition that was rightly given to her. Vale Esme Dobson.

Mr SCALZI (Hartley): I would like to address a question I asked the Minister for Social Justice about whether she was aware of parents of adult disabled persons waiting for permanent accommodation for their children being forced to abandon their children in order to have them deemed homeless and placed in permanent accommodation. I think that it is fitting to demonstrate the problems we are facing in this area, especially in Carers' Week. I have given to the minister a copy of the grievance speech I made on 15 September in reference to Mrs Haddad, in which I made reference to communications with the minister.

As I said, further to my grievance speech of 15 September, Mrs Haddad contacted my office to advise that she has achieved placement for her daughter Joanne, but not through IDSC. Joanne has Down syndrome and suffers from a number of behavioural and medical problems, including epilepsy and sleep apnoea. She requires constant and comprehensive support. Mrs Haddad has not been coping with the demands of caring for her 30 year old disabled daughter for a considerable time, and has been waiting on permanent accommodation for her daughter for some three years. Mrs Haddad felt that she had no other option than to refuse to collect her daughter from respite, where she had been for a number of days at Yoorana. On 21 October this year Mrs Haddad stated that she could also have made Joanne a ward of the state. However, this would have been a final option, and she was unwilling to relinquish her involvement in placing Joanne and caring for her best interests. As Joanne has been categorised as homeless, Mrs Haddad will continue to be consulted. She is currently in negotiations with Minda Homes, where she understands a place might be free in the next week. Meanwhile, Joanne has been placed temporarily at Auldana for the past month. Mrs Haddad feels that this is not an appropriate placement for Joanne as it houses all types of elderly, transient and disabled people and Joanne requires more care. Auldana Rest and Retirement Home is a supported residential facility in Magill struggling to keep open under the pressures of the sector.

Much has been said in the media with regard to these facilities. It is more than ironic that, in Carers' Week (19-25 October), which celebrates the contribution of family carers, we are seeing the situation where a parent is forced to have their disabled child deemed homeless in order to have problems with accommodation addressed. Families are coping with demands that few professional settings are able to cope with, and the problem is becoming worse as parents age. Beyond respite, there is an urgent need for funding for permanent accommodation placements providing appropriate levels of care for the disabled. The Social Development Committee has also heard much evidence regarding this problem. It must be addressed. The IDSC has not been able to provide any new permanent accommodation placements as no recurrent funding was allocated in this year's budget. Families and SRFs, such as Auldana, are picking up the pieces for the lack of government funding for supported accommodation.

As I said, this area must be addressed. When we look at carers from the indigenous population and from non-English speaking backgrounds who have further difficulties, we can see that we have problems in the community that must be addressed. I am not saying that these problems have occurred overnight, but the reality is that this government has had 18 months to deal with this area.

Mrs Geraghty: You had eight years.

Mr SCALZI: The honourable member interjects that we had eight years. The reality is that this government, whilst in opposition and at the last election, made a commitment to health and education. You can address that commitment and give credence to it in two ways. One is to make sure that health and education, as a percentage of a total budget, is greater than that of the previous government. If one looks at the figures, the answer is that it is not: it is less than the last Liberal budget. Secondly, it is necessary to put policies in place that will address these urgent problems.

I am sure that all members in this house are faced with constituents who come and knock on their door with urgent need of accommodation, especially for adult disabled children. I thought it would be appropriate that in this week, Carers Week, we highlight these problems and try to address the great need that is in our community with regards to appropriate accommodation for these people who are facing problems in their families, that many of us are fortunate enough not to have to address day in and day out.

PARLIAMENTARY PROCEDURE

The SPEAKER: Order! Earlier today, some members sought, under standing order 111, to have the member for Mitchell give more information in regard to his response to the motion to appoint members of the Aboriginal Lands Standing Committee. The remarks the chair makes now do not reflect upon the decision of the house but, I trust, indeed the chair, not just the member for Hammond, trusts that the background against which such decision has been made will be fully understood by all honourable members.

The request at the time, under that standing order, was for more information by way of explanation. I invite all honourable members to read it and standing order 116. In future, can I say to the house that there are some important points to consider before invoking this standing order. Firstly, a request by any member for an explanation from another member cannot and does not force the other member to have any more to say on the matter. Secondly, the claim by any member of the need to explain can only provide a very narrow opportunity to explain a particular point of confusion. Otherwise, it transgresses against the intention of all other standing orders, about honourable members who have delegated authority here to represent an equal number of electors whose authority they then have and exercise, to have greater say on a matter than the other 46 such members.

It cannot allow that member to take numerous chances to refute points made by others on the grounds that such other members are confused and need an explanation. It is the chair's belief that it is easily seen, therefore, that any productive use of the standing order requires a considerable degree of goodwill and an element of indulgence that is best available in some other houses in the Westminster fraternity of the CPA parliaments, which use the practice of giving way. We do not.

Honourable members will be aware that making such explanations during debate have been extremely rare. Notwithstanding that, it is difficult to sustain an argument that it is the practice of the house not to do something like this, which standing order 111 permits. In view of the foregoing, it is clear that the house has studiously avoided going down this path in the past for the very good reason that opportunistic use of the standing order would be counter-productive, as the chair has pointed out, and would do nothing for the standards of debate which all members, the chair trusts, seek to maintain. Today's proposal to invoke standing order 111 is not seen or believed by the chair to be merely opportunistic. I do hope that members will be very cautious in seeking its use on this or any future occasion.

The chair also wishes to make an observation about another element of the decision the house has made without reflecting upon it, to ensure that the house understands the gravity of its decision. Section 4(2) of the Parliamentary Remuneration Act 1990 provides:

> A person who holds more than one office as a minister of the Crown may be paid additional salary and receive allowances as a minister of the Crown, and that includes expenses and benefits—

and I am not quoting by making it a statement in these terms—

> in respect of one only of those offices.

It is the intention in law, then, that payment would be made to a minister for being a minister only once. The implication, I suggest to the house, is that, once an honourable member has been appointed to the rank and office as a member of a paid committee, the house needs to contemplate whether it is intended that that would attract two such allowances, under the same constraint as applies in the instance of a minister. And I mean, equally, no disrespect by drawing attention to the fact that in the other place there are members—at least one that I can call to mind—who are presently appointed to more than one committee office for which payment is made.

It is the judgment of the chair that the house needs to visit that quickly to determine whether or not such payment is legitimate and consistent with the provisions of section 4 of the Parliamentary Remuneration Act 1990, as applies to ministers. It is very much a part of what the chair had in mind when I, as the incumbent, proposed reforms of the parliament to require all ministers to be located in the house of government and all the committees of review to be located in the house of review, in a form which ensured that all members of the house of review were paid more highly than the so-called backbenchers in the house of government, and at such a rate as would justify the additional effort they had to make

to serve on two such standing committees of the parliament in consequence of their election and of their seeking election knowing that they would be so required.

These are not matters of little consequence, but they are matters which in the opinion of the chair impinge on the public reputation of all members in any house, whether either of the houses of this parliament, or any other parliament, judging by the remarks which have been made and which I have heard in recent times at the conferences I have attended. I thank members for their attention to these matters.

Motion carried.

At 10.17 p.m. the house adjourned until Thursday 23 October at 10.30 a.m.