HOUSE OF ASSEMBLY

Thursday 28 October 2004

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

DISTINGUISHED VISITORS

The SPEAKER: I am sure that members would want me to acknowledge the presence of the Australasian Parliamentary Education Officers who are with us today, as they are meeting here in Adelaide.

POLICE, TEA TREE GULLY

A petition signed by 3 247 residents and business people from the City of Tea Tree Gully, requesting the house to urge the government to ensure the operation of a police facility/patrol base within the City of Tea Tree Gully before the expiry of the term of this parliament, was presented by Ms Rankin.

Petition received

MURRAY BRIDGE ROAD JUNCTIONS

A petition signed by 685 residents of South Australia, requesting the house to urge the Minister to instruct Transport SA planning liaison section to immediately redesign and construct a safety intersection at the junction of the Murray Bridge to Loxton Road and the Murray Bridge to Mannum Road before more people are maimed and killed, was presented by Mr Brokenshire.

Petition received

PARLIAMENT HOUSE, AUDIO

The Hon. P.F. CONLON (Minister for Infrastructure): Mr Speaker, I am advised that there is trouble hearing the proceedings of the parliament on the speakers around the house. I do not know whether we can do anything about it, but I want to alert the attention of the appropriate people to the problem. Outside the chamber there is a problem hearing the proceedings; people cannot hear it at all.

The Hon. K.O. Foley: They may not see it as a problem!

The Hon. P.F. CONLON: They do not see it as a problem, sir, but I want them listening.

Members interjecting:

The SPEAKER: Order! Members would realise that, notwithstanding the fact that they have had to work long and hard and late into the night this week, so, too, have the speakers, and they may be finding it difficult to perform as well, and they are much older than we are. They have not yet submitted any request for retirement, though I am sure it is well overdue, and the Clerk and I have plans in hand.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Police (Hon. K.O. Foley)—

South Australia Police—Report 2003-04
Regulations under the following Act—
Firearms—Policing Conference

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

Energy Consumers Council—Report 2003-04
Electricity Supply Industry Planning Council—Report 2003-04

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

Emergency Services Administrative Unit—Report 2003-04
State Emergency Service, Activities of the—Report 2003-04
SA Country Fire Service—Report 2003-2004
South Australian Metropolitan Fire Service—Report 2003-04

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

Environment and Heritage, Department for—Report 2003-04
State Heritage Authority—Report 2003-04

By the Minister for Gambling (Hon. M.J. Wright)—

Independent Gambling Authority—Study into the relationship between crime and problem gambling

GREAT SOUTHERN RAILWAY, INVESTIGATION REPORT

The Hon. P.L. WHITE (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: I lay on the table a copy of the Investigation Report Great Southern Railway Ltd System Safety Accident Investigation into the Guest Fatality Train 1AP8 on 2 August 2004. In accordance with section 38 of the Rail Safety Act 1996, the state's rail regulator under that act formally directed the train operator Great Southern Railway (GSR) to conduct an investigation into that fatal incident and provide an investigation report within the required eight week period. The investigation was conducted in accordance with Australian standard AS 5022, entitled Guidelines for Railway Safety Investigation.

On 8 October a copy of the GSR report was sent to the Australian Transport Safety Bureau, which has jurisdiction under the Commonwealth Transport Safety Investigation Act 2003 to investigate incidents on the interstate rail network. Due to inconclusive findings the ATSB was requested to review the GSR report. Following that advice, all information has been passed on to the other two concurrent investigations, that is the Coroner's investigation and the Workplace Services investigation, both of which have yet to be completed. It is anticipated that further evidence may be available to these investigations. The regulator will ensure any resulting recommendations are implemented.

The SPEAKER: Order! The member for Mawson should take a seat, rather than stand with his back to the chair.

ECONOMIC AND FINANCE COMMITTEE

Ms THOMPSON (Reynell): I bring up the 50th report of the committee entitled 'Real Estate Industry Indemnity Fund'.

Report received and ordered to be published.

QUESTION TIME

CROWN SOLICITORS TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General table today the complete transcript of his sworn evidence to the Auditor-General in which he is

reported to have stated that he was not aware of the existence of the Crown Solicitor's Trust Account?

The Hon. M.J. ATKINSON (Attorney-General): I thank the Leader of the Opposition for his question, and I will take advice on that matter.

The Department of Justice operates many accounts and people are paid good money to manage them, to keep track of all the transactions, and to ensure that they are operated legally within Treasury's guidelines and to all accounting standards. That is their job.

The facts are these. I only consciously became aware of the Crown Solicitor's Trust Account in late August, when the new Chief Executive of the Justice Department mentioned an inquiry into the matter. I was not privy to its operation in any way and, therefore, I had no knowledge of the specific transactions linked to the account and, certainly, no involvement.

My political enemies know that I have a long memory and a good memory, but I am not the rain man. If the biggest criticism the opposition can make of me is that I do not follow—

The Hon. R.G. KERIN: I rise on a point of order. The question was very clearly whether the Attorney will table his evidence to the Auditor-General, and I think he is going way beyond that and debating something irrelevant.

The SPEAKER: I uphold the point of order.

WORLD AMATEUR GOLF TEAM CHAMPIONSHIPS

Mr KOUTSANTONIS (West Torrens): My question is to the Minister for Tourism. What would be the benefits to South Australia of hosting the 2008 World Amateur Golf Team Championships?

Members interjecting:

The SPEAKER: Order! I trust the minister will not give us a chronology of the benefits to each and every South Australian one by one.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I thank the member for West Torrens for his question relating to a great win for Australian Major Events in beating a rival bid from the United Arab Emirates that was held in Puerto Rico during the International Golf Federation in conjunction with the Australian Golf Union to host the October 2008 World Amateur Team Championships. This is a great win which will bring 1 500 international visitors for two weeks of—

Members interjecting:

The SPEAKER: Order! May I ask all members, in view of the difficulty which the sound system is experiencing today, that they turn their microphones directly towards them and, equally, they are, of course, though more particularly on this occasion than on any other, attentive and silent when they do not have the call, or none of us will be able to hear what is being asked, answered or said. The Minister for Tourism has not yet been heard. If I could equally ask that microphones to the front, left and right be turned on wherever possible.

The Hon. J.D. LOMAX-SMITH: Thank you, sir. I will try to respond again. I was explaining that in Puerto Rico last week we were the successful bidder against the United Arab Emirates to host the 2008 World Amateur Team Championships. This event receives 1 500 competitors and, indeed, the event in Puerto Rico hosted 50 women's teams and 70 men's teams, as well as, of course, the players, officials and spectators.

This is a major event that lasts a significant period of time, with the event being over 15 days. It will be accompanied by several visits around the state, and we hope that the impact will also be spread around regional and rural South Australia. Important are the high quality of the venues the South Australia, particularly in Adelaide where the member for West Torrens will know that some of the premier golf courses, including Kooyonga and the Royal Adelaide are in his and the member for Colton's electorates. These will offer high-quality venues for this prestigious event.

For those of you who are not familiar with the amateur circuits around the world, these championships incorporate the Espirito Santo Trophy for women and the Eisenhower Trophy for men. This event is conducted every two years with the host venue rotating between the IGFs American, European and Asia-Pacific zones. Certain golfing greats have previously been competitors in this amateur event, including Tiger Woods, Jack Nicklaus, Anna Sorrenstam and Karrie Webb, who each represented their countries in the championships before turning professional. I would particularly like to congratulate the bidding team which included Leanne Grantham. This is a culmination of three years of work, lobbying and highly focused bidding, and I am really delighted that this event has been won. It is particularly important because it fills a month in the calendar when there are no other major events in 2008. As members will realise, it is very important to fill the calendar throughout the year so that hotels, restaurants and other businesses can maintain occupancy through winter and spring, as well as the more popular summer and autumn months.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): My question is again to the Attorney-General. When the Attorney-General received his departmental briefing papers on so vigorously first coming to office, did he notice references to the Crown Solicitor's Trust Account on pages 4, 5 and 6? All government departments prepare incoming government briefings before elections to allow new ministers to be quickly brought up to speed. The Crown Solicitor's Trust Account is referred to on the number of occasions throughout the incoming briefing papers provided to the Attorney, including pages 4, 5 and 6.

The Hon. M.J. ATKINSON (Attorney-General): Yes, I did receive an incoming minister's brief, and there was a sentence that said, 'Crown Solicitor's Trust Account—used to record the receipts and disbursements of moneys pertaining to the financial settlement of legal transactions between parties.' I think that that is a fairly unremarkable sentence. This sentence appeared in a 10 centimetre high stack of briefing papers supplied to me in three lever arch files—not one, not two, but three, lever arch files. Now, I am afraid that I am human, I am not a computer, and I did look at my incoming minister's brief but I can tell you, two and a half years later, I do not have an exact recall of that particular sentence. I confess.

The Hon. R.G. Kerin: Go to page four.

The SPEAKER: Order!

The Hon. M.J. ATKINSON: The page four bit is a trick by the Leader of the Opposition because it is not consecutively numbered through the three lever arch files. In fact, in runs

to hundreds of pages. The Auditor-General had something to say about this counsel of perfection we hear coming from the opposition. He anticipated this counsel of perfection and he said:

> But it would be a very unusual and rare minister who would get down the detail of the accounts. In fact, I don't know of any.

He went on to say:

> Mr Evans (he is referring to the member for Davenport) can say whether he has ever done it as a minister, and Mr Hamilton-Smith has been a minister as well. When you were ministers did you get into the accounts?

He goes on to say:

> I am not asking you to respond, but the issue is that it is—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: You don't like it, do you?

The Hon. R.G. Kerin: I do; you're digging it deeper.

The SPEAKER: Order!

The Hon. R.G. KERIN: Point of order, sir: the question is to do with whether or not the Attorney ever new of the existence of the account. It is not about the fine detail within the account. That was not what he was asked.

The SPEAKER: Order! The honourable the Leader raises an interesting point. There is minutiae and minutiae and it seems that some minutiae did not escape the Auditor-General's attention but others did. The honourable the Attorney-General will address—

The Hon. M.J. ATKINSON: Mr Speaker, may I complete the quote? The Auditor-General said:

> I am not asking you to respond—

The SPEAKER: It was the Attorney-General about which the question was asked, not about the Auditor-General. The honourable member for Florey.

GOOD SPORTS ACCREDITATION

Ms BEDFORD (Florey): My question is to the Minister for Health. How will the Good Sports Accreditation promote healthy lifestyle choices as a way of minimising health problems in our community as recommended by the Generational Health Review?

The Hon. L. STEVENS (Minister for Health): I thank the member for Florey for this question because it gives me the chance to inform the house about the Good Sports Accreditation Program which I recently launched. Developed by the Australian Drug Foundation, this program is being run in South Australia by the Drug and Alcohol Services Council and is also sponsored by the RAA. The Good Sports Program is about promoting low-risk drinking behaviours and responsible management practices for clubs. It helps clubs to create more family-friendly venues by improving the management of alcohol in their venues to reduce instances of binge drinking, drink driving, violence and verbal abuse.

Clubs participating in the pilot program identified that binge drinking and under-age access to alcohol are big issues for sporting clubs in South Australia. We know that young people who participate in physical activity and have strong social networks enjoy better health. Sporting clubs provide these opportunities for young people and the Good Sports Program ensures that the sporting environments themselves are health and safe. The beauty of this program is that it is not only good for the physical health of its members and patrons but it can also be good for the financial health of the sporting clubs themselves.

Australian Drug Foundation research shows that when clubs become involved in good sports, their revenue increases as more people attend club events, more juniors join and the club has a better chance of gaining sponsorship from community businesses due to its improved reputation. This program is not about restricting choice or preventing people from having fun; it is about making balanced decisions about alcohol consumption and creating safer, healthier recreation environments.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): Did the Attorney-General notice any reference to the Crown Solicitor's Trust Account in either of the two Attorney-General's Department annual reports that he has tabled in this parliament?

Members interjecting:

The SPEAKER: Order! The honourable leader has the call. I do not want us to appear like donkeys by any other name.

The Hon. R.G. KERIN: I will briefly explain: the 2001-02 and 2002-03 annual reports which were tabled by the Attorney both refer to the Crown Solicitor's Trust Account on a number of occasions.

The Hon. M.J. ATKINSON (Attorney-General): Yes, the Leader of the Opposition is right. In the appendices to the 2001-02 and the 2002-03 Attorney-General's Department annual reports, in the tables, there is a mention of the Crown Solicitor's Trust Account. There is not, of course, a mention that it was being used as a rort to hide funds from Treasury. No, that was not mentioned at all. But the fact that there was a Crown Solicitor's Trust Account, yes, that was mentioned in the tables.

I suppose the next question is: what was in the previous year's Auditor-General's Report on the justice portfolio? That will be the next question, because those opposite stick to their script like railway tracks.

An honourable member: Vicki will jump up.

The Hon. M.J. ATKINSON: Unless the member for Bragg asks a supplementary. Yes, it was mentioned in the appendices and, yes, of course I looked at the annual report of my department which—surprise, surprise—is not written by me but is prepared by the department.

The Hon. W.A. Matthew: Did you notice the amount went up?

The Hon. M.J. ATKINSON: I will come to that. Thank you for asking that question. Of course I looked at it and I read through it. I do not recall reading the appendices or the tables.

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: So, the member for Davenport read the appendices of his departmental reports! Presumably he will be able to be examined on them. In fact, what I would like to do is choose one of these appendices or tables at random from one of these reports and examine the Hon. Robert Lawson viva voce on them.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: I rise on a point of order. It is quite clear that the Attorney-General is now deliberately trying to debate the issue, whereas the question he was asked was very simple, and we want an answer to that. The answer is probably no, but under standing order 98 I ask you to bring the Attorney-General back to the question.

The SPEAKER: Order! The honourable the deputy leader obviously was not listening. The answer is yes. The Attorney has given that answer.

BROADBAND SERVICES, REGIONAL SA

Mr O'BRIEN (Napier): My question is to the Minister for Science and Information Economy. Will the minister update the house on the government's recent efforts to improve the availability of broadband in regional South Australia?

The SPEAKER: I invite the member for Unley to leave his mobile phone outside. The honourable Minister for Transport.

The Hon. P.L. WHITE (Minister for Science and Information Economy): Thank you, sir. Members may recall that in June this year the state government announced a grant of $770 000 to construct a new broadband infrastructure in the Yorke Peninsula region and the Salisbury area in the first round of the government's Broadband Development Fund Program. The state government's funding for the District Council of Yorke Peninsula enabled project proponents to leverage additional funding from the commonwealth government to construct a 10-kilometre radius wireless broadband network around the major regional towns of Maitland, Minlaton, Warooka and Yorketown.

This new broadband network will provide data, voice and video capabilities to local businesses, government, rural health services, not-for-profit organisations and residents, thus eliminating the disadvantage of distance in some respects from major population centres. Part of the funding announced in June also included a small amount for the Kangaroo Island Development Board for a demand aggregation program.

I am pleased to be able to tell the house that, as a result of that program, more than 300 people have registered an interest in obtaining broadband, making the Kangaroo Island demand register one of the highest in Australia at this time and significantly improving their chances of obtaining broadband capabilities through Telstra.

The Kangaroo Island community has been supported in their efforts through the recently appointed State's Demand Aggregation Broker, a position jointly funded by the state and commonwealth governments. My department is currently working intensively to assist a number of potential applicants to the state government's Broadband Development Fund, and I look forward to informing the house of the outcomes of round 2 of the fund early in the new year.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Attorney-General. Is the Attorney satisfied with the results of the search that he and his staff diligently carried out for departmental documents containing information about the Crown Solicitor's Trust Account? In a radio interview yesterday, the Attorney stated:

> When this issue was first raised we called up all the minutes which have ever been sent to me by the chief executive of the department to see if in writing the Crown Solicitor's Trust Account had ever been mentioned. We have gone through all the records and we cannot find any mention of it.

The opposition's own search has identified written references to the trust account in the following documents provided to the minister—just to help him: the 2001-02 annual report of the department; the 2002-03 annual report of the department; the 2001-02 report of the Auditor-General; the 2002-03 report of the Auditor-General; the incoming government briefing paper delivered to the minister when he assumed office in February 2002; and the departmental briefing papers provided to the minister for his reference during the 2002-03 budget estimates—amongst others.

The Hon. M.J. ATKINSON (Attorney-General): That question and the explanation are not probative of anything. It is not my job to micro-manage financial accounts. Members opposite who were ministers did not do it when they were in office.

The Hon. R.G. KERIN: On a point of order, Mr Speaker, the Attorney is doing it again. The question was about any mention of the Crown Solicitor's Trust Account, not about fine detail.

The SPEAKER: Order! I hear the point of order. The observation the chair has to make is that it seems that the Attorney-General may be ignorant, but not evil; naughty, but not a knave and worthy of being sent to a political knackery. It is appropriate, notwithstanding the thrust of the question, for the Attorney-General to demonstrate his awareness or otherwise of some of the detail (if not all of it) to which the leader averted in the course of asking the question. For that reason and the observations I have made, I cannot uphold the point of order to the extent that the Attorney may not reveal what he knew at the time about the question he has been asked in this instance and what he might obviously have discovered in the last 48 hours or so in consequence of the higher public profile which this issue has obtained as a result of the questioning of the opposition. However, the chair directs the Attorney-General and all other ministers to pay cognisance to the subject matter referred to in the question rather than wandering away into complete defence. The Attorney-General.

The Hon. M.J. ATKINSON: When this matter was drawn to my attention in late August, I did what I think any minister would have done. I said to my staff, 'Well, I have no recollection of this particular device for avoiding the carry-overs policy being drawn to my attention by the Chief Executive.' Indeed, in the evidence of the Auditor-General, he says, 'Kate Lennon said to us that the minister did not know.' I will repeat that: 'Kate Lennon said to us that the minister did not know.' Upon returning to Australia, I said, 'Look, I met the Chief Executive or the Deputy Chief Executive twice a week: once on a Monday afternoon and once on a Thursday afternoon. Let's go back through all the records of those meetings and the agendas to see whether the Crown Solicitor's Trust Account was ever raised.'

Further, I said, 'Let's go and look at all the reports for the fortnightly meetings I have with the Crown Solicitor,' who, during the relevant period, was Mike Walter and who would provide me before those fortnightly meetings with an extensive written report upon which I could ask questions, and that ran to four, five or six pages. We then went through all those reports; and the advice I have received from my staff is that, having gone through all those minutes, agendas and reports, no reference was made to the Crown Solicitor's trust accounts. But it did not stop there—

The Hon. R.G. Kerin interjecting:

The Hon. M.J. ATKINSON: I am sorry?

The SPEAKER: Order! The Attorney-General will not invite interjections. He has enough in his brain to talk about now without inviting more.

The Hon. M.J. ATKINSON: We conducted those searches, as I thought any prudent minister's office would

have done. Further, we did a word search on all the letters going out of my office. We searched for the words, 'Crown Solicitor's Trust Account' or part thereof, and we could not find any such correspondence. As the Auditor-General said, the issue is that it is highly unlikely unless the Chief Executive said to you, 'This figure is a bit soft or a bit dodgy,' or 'If this is picked up in estimates you might be hammered a bit.' He goes on to say:

> That is the only circumstance where I have known a minister to show any real interest in what the accounts display.

That is the Auditor-General, and he has many years experience in the Public Service. He goes on to say:

> Should the Attorney-General have known? The short answer is: probably not.

HOMELESS, INNER CITY

Mrs GERAGHTY (Torrens): My question is directed to the Minister for Families and Communities. What is the government doing to assist the homeless and those affected by substance abuse in the inner city?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): The direct answer to the question is that, more than ever before, this government has taken on the question of vulnerable people in our inner city, and it is directing a range of programs to assist them. In fact, we have extended the dry zone by a further two years at the request of the Adelaide City Council; but, most importantly, we have grappled with the single most important issue, that is, providing services to the most vulnerable people within our community.

In addition to the $24.5 million that has been poured into the homelessness initiatives, many of which have been targeted at the inner city, today I have a number of new initiatives that I wish to place before the house.

Members interjecting:

The Hon. J.W. WEATHERILL: I know those opposite are not interested in the vulnerable—

The SPEAKER: Order! The minister should not presume knowledge of what is in the mind, if anything, of those on the opposition benches.

The Hon. J.W. WEATHERILL: I would like to be heard, sir.

The SPEAKER: The minister will answer the question.

The Hon. J.W. WEATHERILL: Thank you, sir. Perhaps those opposite could pay a little attention to a topic which they abjectly ignored while in office. We have funded a Public Intoxication Act facility—a facility that was called for as long ago as 1991 in the Royal Commission into Black Deaths in Custody. It is a crucially important change in the way in which we treat people with alcohol and substance abuse in our inner city. In the distant past these people were locked up and put into the watch-house, with the obvious deadly effects that had.

Members interjecting:

The Hon. J.W. WEATHERILL: I do not see how it can be that funny. We are talking about deaths in cells. We are talking about the most vulnerable people in our community—and members opposite cannot take it seriously for two moments.

The SPEAKER: Order! I have to tell the minister that, from where I am sitting, the level of interest, or otherwise, seems to be fairly universal across the chamber.

The Hon. J.W. WEATHERILL: Perhaps everyone needs to reflect on that, sir.

Members interjecting:

The SPEAKER: The minister has the call.

The Hon. J.W. WEATHERILL: This facility has been called for since 1991. The 1984 Public Intoxication Act reflected a change in attitude to the way in which we should deal with these people: instead of locking them up, it was to put them in touch with health services. To our collective shame, there has never been a declared facility in this state since 1994, notwithstanding the passing of that act. This government is now delivering such a facility, which I announce today.

We have also funded a community liaison officer to help address the concerns of city residents. Long-suffering city residents, who live near some of these inner city services agencies, have to put up with difficult conduct, so we will assist them by funding community liaison officer positions. Also, there will be a visiting health service—an outreach service—to go out and find people where they are within the inner city to provide the relevant services to them. In addition, we have provided Aboriginal community constables, and we have established a memorandum of understanding between the South Australian Police and the mobile assistance patrol. It is crucially important that the police learn to police in a sensitive way to this particular population. We have increased funding to the city homeless assessment support team, and we have established multi-agency housing support authority increases in resources. All these factors are directed at dealing with the most vulnerable people in our community—a prime goal of this government.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General explain why an internal Department of Justice document—leaked to the opposition—shows that he was aware that the use of the Crown Solicitor's Trust Account was being considered as a possible way of avoiding Treasury policy on carryovers? The leaked internal document is a July 2004 briefing from the Director of the Strategic and Financial Services Unit, entitled, 'Carryovers and the impact of Treasury rules'. This document details in nine separate points the impact of the new Treasury rules of carryovers.

Members interjecting:

The Hon. R.G. KERIN: You might not want me to read it, but listen. Point 10 states that—

The SPEAKER: Order! The leader has the call, and the house has given leave for the explanation. I am listening, even if the rest of the chamber is not.

The Hon. R.G. KERIN: Thank you, sir. I quote:

> Consideration was given to the use of the Crown Solicitor's Trust Account to place unspent funds for committed projects and internal approved carryovers by the Chief Executive. Every amount in the Crown Solicitor's Trust Account has a matter raised in Law Master, and the Chief Executive and the Crown Solicitor was made aware of all these matters. The previous Chief Executive had also informed the Attorney-General of the use of the Crown Solicitor's Trust Account for such matters.

The SPEAKER: Was the leader quoting to the end of the explanation?

The Hon. R.G. KERIN: Yes, sir. The quote was followed to the end.

The SPEAKER: So you closed quotes?

The Hon. R.G. KERIN: Yes, closed quotes at the end, sir.

The SPEAKER: It is important to do that before you sit down; otherwise, the house does not know where the quote concluded.

The Hon. M.J. ATKINSON (Attorney-General): We are aware of that memo—it has become known in this matter as the 'unsigned memo'. It is, of course, hearsay evidence, and when the Contala report and this unsigned hearsay memo went to the Auditor-General I will tell you what the Auditor' General's office did: in the immortal words of the Mr Ed show, 'They went to the source and asked the horse.'

This came to the knowledge of the parliament through a question from the Hon. I.F. Evans, the member for Davenport in this place, and he said:

> How do you know that Kate Lennon did not say something to the Attorney that was not in writing and how do you know that Kate Lennon did not say to a ministerial adviser something that was not in writing?

Mr McPherson replies:

> Because Kate Lennon said to us that the minister did not know, but she was not under oath.

Then the Hon. I.F. Evans said—

The Hon. P.F. Conlon: The memo says she told him.

The SPEAKER: The honourable Minister for Infrastructure will be quiet!

The Hon. M.J. ATKINSON: Then the Hon. I.F. Evans said:

> So you have had a verbal discussion with Kate—

Mr McPherson replied:

> Kate Lennon came in and my colleague, Simon, will confirm that Kate Lennon said that the Attorney did not know about this.

Like many law students of the 1970s, I was a fan of Lord Denning, and I think Lord Denning had something important to say about putting documents or words before people and whether they should notice every clause in a long contract. In the case of Spurling v Bradshaw, Lord Denning said:

> Some clauses [or, in this case, activities] are so onerous that they would need to be printed in red ink on the face of the document with a red hand pointing to it before notice could be held to be sufficient.

The Hon. R.G. KERIN: I have a supplementary question. To help the house, will the Attorney advise whether Kate Lennon stated to the Auditor-General that the Attorney-General had no knowledge of the carryovers and that funds had been placed in the Crown Solicitor's Trust Account, or was it that the Attorney had no knowledge of the existence of the Crown Solicitor's Trust Account?

The Hon. M.J. ATKINSON: Obviously, that distinction was not in the mind of the Auditor-General or Kate Lennon, because it is simply not a material distinction. The whole point of this, the whole thrust of the controversy that has been before us, is that the financial statements of the Attorney-General's Department, according to the Auditor-General, were falsified. That is the nub of the matter. The question of who knew what about the existence of the Crown Solicitor's Trust Account is simply not germane to the discussion. That is not the matter of public controversy. As I have said before, my job is not to micromanage financial accounts: it is to carry out the Labor government's election policies. I am getting on with the tasks for which the government was elected, and this week it has been the drunk's defence, hoon driving and child pornography.

The Hon. R.G. KERIN: I have a rather important supplementary question for the Attorney-General. The Attorney said that it is not germane as to whether it was the existence or the detail. In appearing before the Economic and Finance Committee, the Attorney-General stated:

> . . . so I arranged for the Attorney to attend my office and he gave sworn testimony to the fact that:
> 1. He did not know about the existence of the account;

The Hon. P.F. Conlon: Can you discern a question in that?

The Hon. R.G. KERIN: Well, I did ask a question, but—

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: The question is: do you stand by your statement to the Auditor-General that you did not know about the existence of the Crown Solicitor's Trust Account?

The Hon. M.J. ATKINSON: That question has been asked and answered.

GOVERNMENT RECORDS

Ms CICCARELLO (Norwood): My question is to the Minister for Administrative Services: what has the government done to make the records of government more excessive?—accessible!

Members interjecting:

The SPEAKER: Order! The chair has difficulty understanding the member for Norwood. Would the member for Norwood be kind enough to repeat the question?

Members interjecting:

Ms CICCARELLO: It's my second language! What has the government done to make the records of government more accessible?

The SPEAKER: Did the honourable member for Norwood say 'more expressable'?

Ms CICCARELLO: Accessible.

The SPEAKER: Oh! More easily got at.

Mr Koutsantonis: Oh come on, Mr Speaker!

The SPEAKER: The member for West Torrens is out of order! The chair needs to understand the question, lest the member for West Torrens or any other honourable member asks a question about the relevance of the answer in the course of taking a point of order. If the chair cannot understand the word or words that are used, it makes it impossible for the chair to rule.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I thank the member for Norwood for her important question. The government has continued to improve access to our state's historical records, and has now delivered a facility that enables people to research government records in a location that is convenient for many South Australians. Last week, I had the pleasure of launching the new State Records City Research Centre in the heritage listed Bickford North Building in Leigh Street. I was delighted that the member for Norwood and the member for Schubert were there in attendance with me.

This stunning building has received an upgrade in a successful public/private sector partnership that enables the public to access government records in the city. The building has had a contemporary fit-out within its heritage shell. The city research centre complements the upgraded repository and research centre at Gepps Cross, opened in April this year. The new city premises includes a permanent exhibition space to enable the community to gain an appreciation of the treasures that exist within the collection of government records, and how they might find them useful. Our customers, industry partners, and public officials have provided encouraging feedback on the new facility, which is contributing to the

revitalisation of Adelaide's West End. The new State Records City Research Centre is an asset that all South Australians can enjoy.

TOURISM MARKETING

Mrs HALL (Morialta): What is the minister's response to the poor performance of Adelaide in a recent international survey of 33 international cities conducted by multi-national firm, Jones Lang LaSalle, which placed Adelaide's marketing among the worst in Australia and among the worst in the world?

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I thank the member for Morialta for her question. I am surprised that she was hoodwinked by that newspaper article. I thought that, unlike her predecessor, she had a greater insight into what tourism marketing was about. If anybody actually bothered to read the article or the document you will realise that it was written by Jones Lang LaSalle, and then you might consider what their area of expertise is and, of course, the area of expertise that they were dealing with was the matter of tenancies in cities, and they were talking about quality accommodation, building refurbishment, availability of space, quality of space, and how the sector is marketed. That may have surprised people when the by-line talked about major events and marketing, because the two are completely different. Tourism does not market tenancy space in offices and I would really recommend that the member for Morialta, who has considerable insight and experience, to go to the source document, to read the material, and make a considered assessment because the document—

Mr Brokenshire interjecting:

The SPEAKER: Order! The honourable member for Mawson has been warned.

The Hon. J.D. LOMAX-SMITH: Thank you, sir. I actually believe that you should never be hoodwinked when a journalist talks about marketing and pretends that it is tourism; you should ask the next question; if you go back to the document and read the Jones Lang LaSalle document which talks about city governance, city management, city marketing, environmental perspective for, and I quote, 'the real estate environment.' As much as tourism plays an important part in accommodation, retail and office space, tourism marketing is not the same as marketing for the real estate industry.

SCHOOLS, FUNDING

Ms CHAPMAN (Bragg): Will the Minister for Education and Children's Services give an assurance that no school will lose funding under the government's new funding model to be phased in by 2009 and, if any schools are to have a reduction in their global budgets, will the minister list them? Forty per cent of schools, particularly small primary and area schools, are said to be receiving funding above their resource entitlement, in *The Advertiser* today, and the minister is quoted as saying, '. . . would see no school lose funding.' On 3 October *The Sunday Mail* reported that some schools had received up to $300 000 more than it cost to run the school, and in the same article South Australian Secondary Principals Association president, Bob Heath, estimated that 40 per cent, that is, 240 of the state's 609 schools, would lose funding under the new system.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I have to thank the Member for Bragg, because it gives me an opportunity to say this has been a week to brag about in education.

Members interjecting:

The Hon. J.D. LOMAX-SMITH: This has been the sort of week that parents and teachers have dreamt about, because this is the week that a Labor government starts to really rebuild our education system.

Ms CHAPMAN: I rise on a point of order: whether the minister takes the view—

Members interjecting:

The SPEAKER: Order! The honourable member for Bragg has a point of order. What standing order?

Ms CHAPMAN: Under section 98, sir. The minister was asked whether she would give an assurance in relation to funding. Whatever her celebratory environment she wants to raise it in, I ask her to stick to the relevance of question.

The Hon. P.F. CONLON: On a point of order: the answer so far is considerably shorter than the explanation which has drawn the answer.

The SPEAKER: The honourable the minister has the call. The remark made by the Minister for Infrastructure is relevant in the context of the length of the amount of information provided by the member for Bragg in support of the question, rather than in explanation of it. In my judgment, it would have been better used in a grievance debate than in explaining a question. I understood what the question meant when it was first asked. Accordingly, the house knows that if it wishes to engage in debate of issues of import it can do it by amending its standing orders to give it more opportunity to do so, rather than making a sham of the exercise and attempting to do it in question time. The honourable the minister.

The Hon. J.D. LOMAX-SMITH: Thank you, sir. I should commend the member for Bragg for showing interest in the public education system. Certainly, the changes that have occurred this week have been dramatic: the recognition of the best literacy results ever; the turnaround in the school retention data—

Ms CHAPMAN: I rise on a point of order. Again, I raise the question of relevance. I have asked for the minister's assurance in relation to the new funding model, not everything else she has been doing this week.

The SPEAKER: I understand that and direct the minister's attention to the question rather than the debate. I was trying to give the minister a hint about that in the earlier remark.

The Hon. J.D. LOMAX-SMITH: I will have to take a little time to explain to the member for Bragg that we have changed the funding model for schools. We have relinquished the failed model that was there before and returned the system to a unified policy of funding. So her idea of a global budget is no longer relevant, because we have a new system of budgetary alignment within our schools that is fair on a whole range of areas. I will be the first one to say that we have made changes that have been negotiated, that have been discussed—

The Hon. P.F. Conlon: There is more money.

The Hon. J.D. LOMAX-SMITH: There is indeed more money; there is a single system of funding for schools. In order to make it equitable and to put funding into a range of areas that require refunding we have put extra money into the funding: $15.6 million extra has gone into the funding. This is on top of the 16.7 per cent we have already put in, on top of the money for literacy; on top of the money for counsellors; and on top of the biggest asset management funding

program that the heads of our schools and our Principals Association have ever seen. And to quote Bob Heath out of context is mischievous, because he has supported the single funding model. He has supported the actions of the government and commended us for the extra millions of dollars—more than $15 million into school funding—

The Hon. P.F. Conlon interjecting:

The Hon. J.D. LOMAX-SMITH: More than was ever put in under the Liberal government; a fourfold increase in asset management funding—the best results ever—and he has supported our process. Several weeks ago, I will admit, he was worried, because he thought there might have been a cut in funding. He thought that the Labor government's record was too good to believe, but we delivered again.

DRIVING INSTRUCTOR LICENCES

Mr BROKENSHIRE (Mawson): My question is to the Minister for Transport. Why has the driving instructor's licence fee been increased from $250 for five years to $1 390 for five years, an increase of 530 per cent? Don't you like driving instructors?

The SPEAKER: Order! I don't have any particular preference. The honourable member knows very well that the question is to be directed to the Speaker. The honourable minister.

The Hon. P.L. WHITE (Minister for Transport): I will first check the figures that the honourable member—

An honourable member interjecting:

The Hon. P.L. WHITE: Well, I will check the figures. I will ask my chief executive to follow up on those figures and bring back a response to the house.

PLUMBING INSURANCE SCHEME

Mr WILLIAMS (MacKillop): Will the Minister for Administrative Services assure the house that the plumbing insurance scheme offered by the state government-owned South Australian water corporation will not put the livelihood of local small plumbing businesses in South Australia at risk? An insurance scheme offered by SA Water and the South Australian Water Board gives a monopoly endorsement to Home Service Direct, a UK run private enterprise company, and allows it to use the SA Water logo. The Plumbing Industry Association has voiced concerns that this deal will have a serious negative impact on small plumbing businesses in South Australia.

The Hon. M.J. WRIGHT (Minister for Administrative Services): What the member may not realise is that the plumbers who will be used in this scheme will come from South Australia.

BALL PUBLIC RELATIONS PTY LTD

Ms CHAPMAN (Bragg): My question is to the Attorney-General. Has public money been expended on the appointment of Ball Public Relations Pty Ltd as the public relations consultant for the Office of the Director of Public Prosecutions and its Acting Director, Wendy Abraham QC; if so, how much, and was the engagement offered to public tender?

The Hon. M.J. ATKINSON (Attorney-General): The member for Bragg's question is a good one, and I thank her for asking it. I became aware in a meeting with the Acting Director of Public Prosecutions—

The Hon. I.F. Evans: Consciously aware?

The Hon. M.J. ATKINSON: Yes, consciously aware—Wendy Abraham, that the Office of the DPP had for some time hired Rob Ball to do public relations work for them. I will ascertain the total cost to the Office of the DPP's budget of that public relations work for the honourable member as soon as possible.

SEWAGE SPILLS

The Hon. W.A. MATTHEW (Bright): My question is to the Minister for Environment and Conservation. When will the minister take action to ensure that the electricity backup is installed to prevent further sewage spills at Hallett Cove, and has he instructed the Environment Protection Authority to take action in relation to this matter, and also the most recent sewage spill at Hallett Cove? On Thursday 7 October, due to what I am advised was an error by United Water, raw sewage spilt from a station at Trott Park into the Field River and poured onto the beach at Hallett Cove. This is the third sewage spill in the past 18 months, two previous spills being due to electricity failures at the pumping stations.

I am advised by ETSA Utilities that, despite the fact that they provided SA Water with cost options for the work to be done to ensure that pumping stations do not malfunction due to electricity failure, they have not been requested to undertake this work. Hallett Cove residents who have contacted me are concerned that without government action being taken by this minister there is the risk of still more sewage spills onto the beach at Hallett Cove.

The SPEAKER: Order! The vast majority of the explanation was in fact debate. The honourable minister.

The Hon. J.D. HILL (Minister for Environment and Conservation): This incident occurred on 8 October, some two or three weeks ago. Of course, the honourable member would be aware, as all members would, that I am responsible for the Environment Protection Authority (an independent body), and other ministers are responsible for other parts of the issue. The Minister for Administrative Services is responsible for SA Water and, of course, the Minister for Infrastructure is responsible for the provision of electrical services. However, I will give the honourable member a very detailed answer to his question. A sewage spill, which led to waste water entering the Field River at Reynella, was reported to the EPA at 9.40 on Friday 8 October.

Whilst investigations are proceeding, the incident is believed to have occurred after a pump was switched off by workers to enable repairs. When the pump under repair is deactivated, an upstream pump at Young Street, Reynella, is also turned off. After the repairs were completed, the repaired pump was reactivated but the pump at Young Street remained, unfortunately, in the 'off' position. This caused sewage to flow out of a manhole situated near the Field River. It would appear to be human misadventure.

It is understood that United Water noticed that the pump was not operating at 7 o'clock in the morning. It attended and activated the Young Street pump. It is likely that a significant volume of untreated sewage escaped. As the honourable member said, this is not the first time that an incident has occurred in this vicinity. Waste water entered the Field River earlier in the year when there was a power failure to a different pumping station, although it was served through two separate power supplies. Arising from that incident, the EPA sought an investigation from SA Water on how reliability could be improved.

SA Water has stated that the following initiatives are currently being progressed to reduce the incidence and impacts of overflows from the waste water network in the metropolitan area:

- allocation of approximately $6 million of 2004-05—

Mr Brokenshire interjecting:

The Hon. J.D. HILL: Look, I know that the member for Mawson is an expert on raw sewage, but perhaps he could keep his expertise to himself at the moment.

An honourable member interjecting:

The Hon. J.D. HILL: Yes, as my colleague says, he is absolutely full of it. I continue:

- allocation of approximately $6 million of 2004-05 capital expenditure towards reducing the current levels of waste water overflows;
- preparation of a methodology for development of an overflow abatement program in accordance with the EPA's draft Code of Practice for the Management of Waste Water Overflows;
- currently holding discussions with ETSA to explore methods of improving the security of power supplies to critical pumping stations;
- SA Water has commissioned a consultancy for the assessment of the adequacy of the waste water network serving the Christies Beach Waste Water Treatment Plant Catchment. The results of this assessment will assist future network planning;
- United Water has commenced work on control modifications at some individual pumping stations and is developing proposals for upgrade of pumping stations in the Christies Beach waste water network; and
- during 2004-05 the 80 waste water pumping stations (of a total of 300 plus), which are not currently connected to the SA Water telemetry system, will be connected at a cost of $240 000.

Members will see that quite a lot of work has been done to address this systemic problem right across the metropolitan area. As indicated above, an investigation by the EPA is currently proceeding. However, it should be pointed out that the operation of the pumping station does not fall under a licence. There is certainly a potential breach of the water quality policy. However, it is highly unlikely that the EPA will be able to improve environmental harm at the lower scale—that is, environmental nuisance—due to inability to prove that the action was undertaken intentionally and recklessly.

As members will be aware, amendments have been sought to the act to remedy this situation. I look forward to the support of members opposite when this bill comes before the house to address this issue.

GRIEVANCE DEBATE

ATTORNEY-GENERAL

The Hon. R.G. KERIN (Leader of the Opposition): I rise today to talk about the repercussions of the Attorney-General's not being aware of many things, in particular, the fact that he has given evidence that he was unaware of the very existence of the Crown Solicitor's Trust Account, which has become a very high profile account over the past few weeks. This defies all credibility. It is unbelievable that an Attorney-General could possibly be ignorant of this particular account. He again tells us today that he did not know about this account until August this year—which is very hard to believe, having heard about the number of pieces of literature that have gone to his office about it. As we pointed out in question time today, there have been many occasions when detail of the account has been put in front of the Attorney-General.

We on this side of side of the chamber well remember the Hon. Trevor Griffin—indeed, of blessed memory—who was a very good Attorney-General. One of his great strengths was the fact that he would read well and read often.

The Hon. M.J. Atkinson: And you sacked him!

The Hon. R.G. KERIN: This Attorney-General could not live in the shadow of the Hon. Trevor Griffin. It appears that we have gone from an Attorney-General who read everything to an Attorney-General who reads absolutely nothing—not annual reports, not Auditor-General's Reports, not briefings. He seems to read absolutely nothing. His knowledge of his department appears to be near zero.

The minister has denied any knowledge at all of the now notorious Crown Solicitor's Trust Account. This defies belief. The Attorney-General today tried to confuse knowledge of the existence of the account with knowledge of the detail within the account—but that will not work and let him off. He did not tell the Auditor-General that he was not across detail. He swore on oath to the Auditor-General that 'he did not know about the existence of the account'. Today, the Attorney-General has tried to fudge it and say that what he really meant was that he did not really know about the detail. It was very clear in the evidence given by the Auditor-General to the Economic and Finance Committee that he swore on oath that he did not know about the existence of the account.

Today we have established that the account was raised in much correspondence to the Attorney-General. We are being asked to believe that we have an Attorney-General who has no recall of anything that he might read. Is it not ironic that the same person would be able to rattle off the ward results of many local government elections over many years? It is the same person who does not just get deeply involved in but, rather, is the acknowledged expert around this place on SDA elections, and every factional deal and fracture within the ALP over the past 15 years. He knows every bit of the detail and he has not forgotten who has been responsible for those.

We are faced with three options: first, the Attorney has read virtually nothing that has been put in front of him because he has been busy doing all these other things; or he got it wrong when he claimed to have no knowledge of the account; or he is just not interested in his job. He has plenty of time to interfere in local government; to interfere in the SDA union elections; to pull stunts, either off or on his bike, in front of the media; to create scenarios such as the famous bikies' barbecuing cat fantasy to excite even more media coverage; and to ring Bob Francis, even if he is on the bus on his way home—or whatever scenario he comes up with. Yet he has no time to oversee his department, to read his briefs and to work on improving what is becoming a increasingly dysfunctional justice system within this state, because he is not working at all with the people within the system.

The Attorney-General has been criticised very widely and justifiably. The latest criticism by the magistrates, I understand, is extremely justified in that they have been raising for

a couple of years a number of issues which he has absolutely refused to address.

HOSPITALS, WESTERN

Mr CAICA (Colton): Last Saturday I had the privilege of attending the Western Hospital, a private hospital—formerly a community hospital—based in my electorate. I was there in my own right as the local member and was also able to represent the Minister for Health at this function celebrating the hospital's 30th year. It simultaneously commemorated the purchase of that hospital by Dr Richard Noble and his consortium and also launched the Friends of the Western Hospital Association Inc.

It was not that long ago that many people in attendance that day would have celebrated the event of the 30th anniversary only in passing, as there was a very big cloud over the future of that hospital. Fortunately, within our local community we still have a private hospital that meets the needs of that community. Indeed, the hospital is near and dear to many of the people whom I represent and, as a local community, we have many memories of it. It was the community that pushed to have that hospital built, and in 1974 it was opened by His Excellency the Governor, Sir Mark Oliphant. The community pushed very hard for it, and it was also an achievement that was assisted by the significant financial support of the state government of the day.

We saw the evolution of that hospital into one of the state's premier private community hospitals that offered a full range of services. Indeed, as a community we all know people who have been born there: one of my sons was born there, and my friend the honourable member for Enfield's children were also born at that hospital. We also know people who have been healed there, as well as many people who have passed away there. As I said, it is a hospital that has many memories for many people, so it was a very significant day and I was happy to be able to join the rest of the community in celebrating its 30th anniversary.

It was a day that many thought might not occur, and I think there are a few people who need to be congratulated for the role they played with respect to this hospital remaining open. One of them, of course, is Dr Richard Noble who, with his consortium, took a risk with respect to the purchase of the hospital. But it is also important to point out that the risk and courage shown by Dr Noble and his consortium became less of a risk because of the support of the dedicated hospital staff, both past and present, and of the community, who worked very hard both as individuals and as a collective to save that hospital. Indeed, the risk may not have been taken without that support.

The Friends of Western, in particular, should be mentioned in that regard, and, while there are many who should be recognised, Angelo Provesan is one who should be singled out. As the local member, it makes me proud to see the resolve of the community that I represent with respect to this particular hospital.

Throughout that period we also saw the flawed argument of ACHA that the hospital was under-performing. I have mentioned that previously, and I could reserve some vitriol for ACHA, but there is no point. Their board got it wrong, and the hospital is now better without their duplicity.

One of the things I found interesting at the presentation was that there is, I guess, a connection between this hospital and the Queen Elizabeth Hospital. Our state government is doing everything it can to ensure that the Queen Elizabeth Hospital returns to its glory days, but the future wellbeing of the Queen Elizabeth Hospital and that of the Western Hospital are linked; that is, their future success is not mutually exclusive. I know that both will play a very important role in the delivery of the full range of health services to the community I represent and, indeed, to the entire western suburbs. So it was an absolute pleasure to be there that day and to be part of their official ceremonies celebrating the event.

It was also the very first occasion that I was able to introduce Mr Steve Georganas—in fact, it was the very first time that he was introduced as the member for Hindmarsh. It was a joint celebration in that regard, and I know that Steve will represent the hospital and all aspects of the western suburbs very well.

PRIMARY SCHOOL READING PROGRAM

Mr WILLIAMS (MacKillop): The question I pose today is: where is the Premier's reading program when you need it? The Premier's ministers need to take note of the primary school reading program that the Premier has instituted because, yet again, we have a minister whose only defence is that he did not read what he patently should have read. He did not read any of the documents that he has presented to this house, including the annual reports of his own departments, and he did not read the briefing papers he received when he first became minister.

I should have thought that a minister, walking into a new department, would have made sure that he read everything that was put in front of him—everything—to protect himself. Members opposite say, 'Oh, you can't possibly do that.' Well, when you do not do that you get caught out like this minister has been caught out and, sir, this minister has been caught out. This minister is not on the ropes; he is a dead man walking. He is not on the ropes; he is gone. It might not happen today, it might not happen next week, but this minister is gone, and he is gone on his own evidence. Allow me to read from the Ministerial Code of Conduct. The passage entitled, 'Financial accountability,' in paragraph 2.7, states:

> Ministers have an obligation to account to parliament fully and effectively for all moneys they have authorised to be spent, invested or borrowed. Ministers are obliged to give parliament full, accurate and timely accounts of all public money over which the parliament has given them authority. It follows—

and I am still quoting from the code of conduct—

> that ministers must keep appropriate records and ensure that the officers of their departments and agencies regularly account for the expenditure and allocation of resources under their control.

These are fine words. We know that the Strategic and Financial Services Unit of the minister's department reports to the minister on a monthly basis. It provides monthly financial and capital justice management reports to senior executive officers and the minister. The minister will claim, and he will keep claiming, that he did not read those reports, either, but the Ministerial Code of Conduct says that he should do so; he is obliged to. If the minister will not do the right thing and resign, the Premier should sack him. This goes to the heart of everything that this Premier purports to stand for—accountability in government.

There is no accountability in this government, certainly not in this minister, and it just reflects what we have seen: the standard and the level we have seen from a number of ministers in the short history of this government. The minister

relies on defending himself by saying that there is no written documentation of what has happened. He might get away with it for a while, and that is why I said he might not fall today; he might get away with it for a little while. However, I can inform the minister and his colleagues that the public sector out there is sick of him; it is sick of the nonsense; and it is sick of taking the blame.

The public sector is leaking, and the opposition will continue to get documents, as we have over the past few days, and people will come out of the woodwork, because you cannot do to the Public Service what this government is doing to it. You cannot hide; you cannot walk away from your responsibility and your accountability; you must take responsibility for what happens. This minister knows that, and, although he will duck, dodge and weave, he will not get away with it forever, because the bureaucrats will not put up with it.

On ABC Radio the minister said—I think it was only yesterday morning—that they trawled through the departmental records to see if they could find anything in writing. I bet he wiped his brow after that and said, 'Wow! I am glad there is nothing there in writing.' He told the people of South Australia that there was nothing in writing, yet, when he was questioned by the Leader of the Opposition today about evidence that we have (evidence which is available to everybody in South Australia), the minister had quotes from those same documents on his desk in front of him. He is at out there telling the public of South Australia that there is nothing in writing leading him to guilt, yet he had the very documents there today. He told the people of South Australia that they had trawled through the department some time ago looking for these yet, yesterday, he said that they had found nothing, and today he had it.

An honourable member interjecting:

Mr WILLIAMS: Yes; the code of conduct also says that not only should the minister not be misleading the parliament but also that he should not be misleading the people of South Australia. He is not only responsible to the parliament but he is also responsible to the people of South Australia. Unfortunately my time has expired, but I will be back.

Time expired.

WORLD TEACHERS' DAY

Ms RANKINE (Wright): I would like to make a few comments about World Teachers' Day, which will be celebrated tomorrow and which was initiated by UNESCO to formally recognise the work and contribution of our teachers. We know that every day the future of Australia walks through the doors of our schools, and every day the teachers and support staff in our schools help develop that particular future. I would like to take this opportunity to thank the teachers of South Australia and, in particular, those teachers working in the schools in my electorate for their commitment to our children and their families. They do not just teach the formal curriculum to our children but also help instil the fundamental values essential in their development towards becoming good citizens. I think that for the first time in a long time those teachers and families and students realise that they now have a government that is very strong in its support of our educators, children and their families, and they have a government that has the level of commitment in supporting them that they actually deserve.

I saw the results of the dedication and commitment of our teachers yesterday. I attended the assembly celebrating the achievements of 160 young people at the Golden Grove High School year 12 graduation. This is always quite an eye-opening event and yesterday was no different. Golden Grove High School is a centre for excellence in the arts and everyone in the audience saw the results of that yesterday. We enjoyed a performance by the guitar ensemble; we saw the year 12 dance group which included Emily Brumby, Chiara Graetz, Carizza Christophers, Nicole Homann, Sam Reynolds and Amy Vettese perform and, if we do not have some stars coming out of that dance group I will be very surprised. We had Penny Thompson and the rock group performing a song that was written by them, and that was a wonderful event, and enjoyed by the young people. I have to say that I, like many others, was left with my jaw hanging open as young Sandy Hahn performed a piano recital that he had written himself, and it was nothing short of outstanding.

We saw these young people presented with a range of awards for excellence in particular subjects—but I want to make special mention of a few young people for whom yesterday was particularly special. These people were students of the special unit at Golden Grove High School, and a couple of them, I know, were very shy about going up on to the stage and receiving their awards, but were absolutely delighted after they received them, and I am sure that their families would have had tears in their eyes as they saw these young people graduate yesterday. Philippa Sidler graduated along with Bronwyn Sauer, Luke Drofenik, Sarah Brewster, Christopher Hein and Renae Vahoumis. They were very special young people who have been much loved by that school community, and it was a wonderful event. I would like to congratulate all 160. Year 12 graduation, finishing five years of high school, is a great achievement and a real milestone in their lives. They are now embarking on a wonderful adventure. They have many years of excitement as they grow and development.

The skills that they have developed while at school are enormous; the range of talents were extraordinary; and they were a real credit to themselves, their schools and their families. It is worth again paying real tribute to the commitment and dedication of the principal at the school, Jude Leak, and all of her staff that I know go above and beyond the call of duty in their care and nurturing of these young people.

NATIVE VEGETATION ACT

The Hon. G.M. GUNN (Stuart): It is so good to be here again after our marathon sitting last night. I want to raise something which I know is of concern to you, Mr Speaker, and that is the manner in which the regulation of the Native Vegetation Act, the act itself and the way that certain people involved in it treat ordinary, decent, law-abiding citizens. If there is a piece of legislation which is currently getting in the way of progress, getting in the way of protecting the safety of the public from the ravages of bushfire, it is the unwise manner in which this piece of legislation is currently being administered.

The time has now come for people to have a cold shower, to look in the mirror and say, 'Do we want development; do we want people to have jobs; do we want people to be protected from the ravages of bushfires; or do we want to continue to pander to that irresponsible minority of eccentric green gestapo?' A parliamentary colleague of mine from Western Australia advised me a couple of weeks ago that that is the only fair and effective way you can describe these eccentrics.

I have a copy of the regulations on the Native Vegetation Act where it goes through ad infinitum talking about section 25 of the Native Vegetation Act. Section 25 of the Native Vegetation Act deals with guidelines for applications for assistance in the matter of native vegetation. This matter was brought to my attention by a constituent of the honourable member for Unley who, to put it mildly, has suffered greatly because there are no adequate guidelines. He and his wife are the victims of what they consider to be unwise and unfair treatment. So he gave me a copy of these regulations. He has been through them and noted—there is reference after reference to the relevant guidelines adopted by the Native Vegetation Council under section 25 of this act. For example, section 5(4) of the regulation states:

> If relevant guidelines have not been adopted by the Council, the district bushfire prevention committee must, when making its decision, have regard to. . .
>
> (a) the need to protect land used for primary production; and
>
> (b) the need to preserve the vegetation for such of the reasons as set out. . .

We have had long experience in relation to this matter. There is an urgent need to protect the Country Fire Service against the foolishness of some of these people. You have had the experience, Mr Speaker, in your district and you have referred to the activities of Mr Whisson. The Mahars at western Ceduna have had difficulties and other people have had difficulties with this unreasonable attitude. The greatest thing in this world is commonsense and fairness in the protection of the public. There is an urgent need to take into effect the economic considerations.

You know, I understand the Greens interfering with a pipeline going from Iron Duke up to Whyalla. They have stopped the developments of Port Lincoln. They are interfering with roads. They are harassing people in the district council overseers. They go on to people's farms and make out they do not—I have had personal experience—and they still will not answer the legitimate questions that have been put to them. I know the answers. We know the answers. When people do not tell the truth in a democracy, you know what happens to them.

An honourable member interjecting:

The Hon. G.M. GUNN: What these people do not understand is this: they are unwise and, because of their attitude, people watch them like hawks. When these people go on to people's farms, other people take the numbers of their motor cars so that they are aware when the greenies will not own up to what they have done. A previous member of the Native Vegetation Council told me that one person changed the dates on correspondence. So we will pursue that matter. I want to know whether the government wants to see development, whether it wants to protect the public, or whether it wants to pander to Bob Brown and his fools—Bob Brown and his group. They got the stick at the election, so I look forward to a more enlightened approach coming from the Senate in Canberra, because these people have had their moment in the sun and the tide has picked them up and washed them downstream.

Time expired.

OIL AND GAS

Mr HANNA (Mitchell): I wish to draw the attention of this house to scientific evidence that the world production of oil and gas will soon begin to decline and the devastating consequences that this will have on the world economy and that of South Australia. The Association for the Study of People and Gas (also known as ASPO) is a network of scientists affiliated with European institutions and universities that have an interest in determining the date and impact of the peak and decline of the world production of oil and gas due to resource constraints. Modelling by the Uppsala Hydrocarbon Depletion Study Group in Sweden indicates that we are close to having used up half of the oil that can ever be extracted from the earth. Professor Kenneth Deffeyes of Princeton University has made statistical projections based on current and historical production rates that indicate the same thing. Indeed, the Statistical Review of World Energy, which is published yearly by British Petroleum and which is accepted as the industry's standard reference, shows oil reserve figures that are broadly in line with these estimates.

The production of a natural resource tends to follow a bell-shaped curve. It begins at a low rate and then increases rapidly as the easily accessible material is mined. Peak production tends to occur when around half of the useable resource has been extracted. Production then declines continuously as ever more energy and ingenuity are required to access the remaining material. The best studied example of this is oil production in the USA. In 1956, the US was the world's leading oil province with more than double the production capacity of Saudi Arabia. At that time a geophysicist employed by Shell Oil, Dr M. King Hubbert, predicted that US production would peak around 1970 and then begin an irreversible decline. This claim was mocked at the time; it proved to be very accurate. Since peaking in 1970, US oil production has declined by over 30 per cent.

What do nations to when they run short of critical resources? They tend to go to war and plunder other nations if they are not able to trade their way through to get what they want. That is what has happened, of course, with the US invasion of Iraq. If human civilisation has consumed half of the world's available oil reserves, then we should be near the top of the bell-shaped production curve. The production rate of oil should begin to decline within a few years if not sooner. We are currently seeing record levels of oil production but, apparently, little ability to increase production levels further to meet burgeoning demand. A decline in oil production appears imminent. It is also disturbing that two-thirds of the world's remaining oil reserves are in the Middle East, one of the most politically unstable regions in the world. Further wars in the area of the Persian Gulf could lead to rapid declines in deliverable oil.

If oil production decreases while world demand is rising then the price of oil will skyrocket. In fact, the only way for the price of oil to remain stable will be for world demand to decrease at the same rate as the oil supply. Unfortunately, that is inconceivable. A skyrocketing oil price will not just be a problem for motorists. Few people appreciate how totally dependant our economy, and indeed our technological society, is upon oil. Oil is the feedstock for most plastics and pharmaceuticals. Oil is the cheap and versatile energy source that powers globalisation including mass international tourism and global manufacturing supply chains. Cheap oil allows South Australia industries to export commodities at competitive prices to the rest of the world. However, most importantly, our modern extensive agriculture is critically dependent upon oil.

The agriculture of North America is similar to that of Australia in its highly mechanised, extensive nature, and its widespread use of fertiliser and pesticides. Earlier this year, Dale Allen Pfeiffer, an editor of the US-based internet journal

From the Wilderness Publications published a study entitled 'Eating fossil fuels' on the absolute dependence of North American agriculture on oil. For example, one kilogram of oil is used to produce every kilogram of food, and that figure does not include the fuel used to transport produce from the farm, process it, hold it in cold storage, package it, distribute it and then cook it. Growing food for each American requires around 1 500 litres of oil per year per person. Thus, if oil prices multiply the price of food must follow. Of course, although we are enjoying high levels of affluence in South Australia and Australia at this time, dramatically increasing oil prices will present the South Australian economy with a storm of recession, and that is going to include an impact on the people in my electorate.

STATUTES AMENDMENT (DRINK DRIVING) BILL

The Hon. P.L. WHITE (Minister for Transport) obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959 and the Road Traffic Act 1961. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

Drink driving remains a significant problem in South Australia. Drink driving continues to account for just over one in four of driver and rider fatalities in South Australia. In the period 1994 to 2003, 29 per cent of drivers and riders killed had a Blood Alcohol Concentration (or BAC) above the legal limit of 0.05. In the same period almost one in five drivers and riders who suffered a serious injury crash had an illegal BAC ("serious injury" is defined as a person who sustains injuries and is admitted to hospital as a result of a road crash and who does not die as a result of those injuries within 30 days of the crash).

When a driver has consumed alcohol, for every increase of 0.05, the chance of crashing doubles. At 0.08, the crash risk quadruples. Therefore, at the Category 3 level (a BAC of 0.15) a driver is about 8 times more likely to be involved in a crash than a sober driver. Above 0.15 the risk continues to rise exponentially.

Between 1997 and 2003, 25 per cent of all drivers killed with a BAC over the legal limit were within the Category 2 range of 0.08 to 0.149.

Over recent years in South Australia, the percentage of drivers with BAC of 0.15 (which is three times the legal limit) or above is approximately 28 per cent of all those detected above the legal limit of 0.05. In addition, approximately 70 per cent of drivers or riders with an illegal BAC who are killed have blood alcohol levels well in excess of three times the legal limit.

Yet, despite these terrifying facts, the 2003 National Report on Government Services shows that 12 per cent of South Australian drivers admitted to driving with a BAC above the legal limit in the previous 12 months.

A survey undertaken by the Royal Automobile Association in South Australia and published in the October issue of their journal, the *SA Motor*, found that more than half of the respondents in the 16 to 25 year old age group, living in Adelaide, admitted to regularly drinking and driving. Sadly, almost half of country people surveyed, mostly young men, also admitted to regularly drinking and driving.

What is particularly worrying is the percentage of drivers or riders killed with an illegal BAC. In 2003, it was 26 per cent—higher than the figure for five years earlier, 1998, which stood at 22 per cent.

In 2002, 41 per cent of drivers convicted for drink driving had committed a previous offence of this nature. Research undertaken in 2003 by the University of Adelaide for the Department of Transport and Urban Planning found that prior drink driving related offences proved to be the only strong and consistent predictor of culpability in all fatal crashes in South Australia.

We have become complacent. Deaths and injuries from drink driving have been steadily rising. There is a real and immediate danger that the hard gained successes of the last twenty or so years in significantly reducing the drink drive road toll will be lost.

In recognition of this deteriorating situation and the need for determined and effective response, the Road Safety Advisory Council, chaired by Sir Eric Neal AC CVO and consisting of senior officers from Department of Transport and Urban Planning, SA Police, the Department of Education & Children's Services, Department of Health, the Motor Accident Commission, Royal Automobile Association, Local Government Association, Centre for Automotive Safety Research and Transport Workers Union have recommended to the Government the introduction of unrestricted mobile random breath testing and support the immediate loss of licence for drink driving with a BAC of 0.08 and above.

The Statutes Amendment (Drink Driving) Bill 2004 gives effect to these recommendations.

Firstly, unrestricted mobile random breath testing.

This method is used in all other Australian jurisdictions and has been shown to be an efficient and effective tool in combating drink-driving offences particularly when used in conjunction with stationary random breath testing stations.

Limited mobile random breath testing commenced in South Australia on 29 September 2003. Figures from SA Police show that mobile random breath testing has a significantly higher detection rate—up to ten times greater—than stationary random breath testing.

Unrestricted mobile random breath testing will enhance static random breath testing. Its introduction will strengthen SAPOL's capacity to detect and, in the case of Category 2 (0.08 to 0.149 BAC) and Category 3 (0.15 BAC and above), remove from the roads drink drivers who represent an unacceptable risk to the community and other road users in particular.

Stationary random breath testing is effective when it is highly visible, well publicised, and conducted sufficiently frequently to create a public perception that drink drivers have a good chance of being caught. This serves to deter individuals from drinking and driving.

However, stationary testing is resource intensive and, compared to mobile random breath testing, detects relatively few drink-driving motorists.

Since the introduction of limited mobile random breath testing on 29 September 2003, SAPOL has conducted 44 826 tests resulting in 1844 positive detections. Advice from SAPOL indicates that if mobile random breath testing was not limited to "prescribed periods" it is expected that the detections would rise to approximately 3000 per annum taking into account a drop in detections due to modified driver behaviour.

The approach of using mobile random breath testing to complement and supplement stationary testing is consistent with the scientific literature and research on the subject.

Mobile random breath testing is also particularly effective in rural areas where static testing stations have proven to be ineffective.

Drinking and driving is a particular problem in country areas. Between 1997 and 2003, nearly 70 per cent of drivers or riders killed with an illegal BAC were in rural areas. This is particularly the case for the drink drivers with the higher readings. Fifteen of the nineteen drivers or riders killed with a BAC of 0.25 or above died in rural areas. The remaining 4 died in metropolitan Adelaide.

The inability to conduct successful random breath testing operations in country locations has long been a significant problem. This is particularly so in smaller communities where the presence of additional police and the random breath-testing unit is quickly made known through the community so that those who are prone to drinking and driving will rely on alternative, locally known, routes to reach and depart the town. The experience of police in these situations is that the use of static random breath testing does not act as a deterrent. A single police vehicle with the ability to stop any vehicle on any road at any time could overcome the problems associated with static testing in country locations.

There are also locations where the establishment of a static operation would not be safe and would create a danger for both police and road users. This can occur on high-speed roads such as the South Eastern Freeway, or the Southern Expressway and locations where the topography of the area (such as where narrow winding roads limit sight distances on the approach to the testing

station) makes it dangerous. A mobile patrol with the ability to stop and test a driver can select a safe location to conduct the test.

The higher detection rate from unrestricted mobile random breath testing and its ability to complement static random breath testing will translate to safer communities through a reduction in the fatalities and injuries associated with drink drive crashes.

The second issue is that of immediate loss of licence.

Given the significantly increased crash risk of drivers with a BAC in the 0.08 to 0.149 and 0.15 and above ranges, and the consequential higher danger they pose to the community, the Bill proposes to amend the *Road Traffic Act 1961* to provide for immediate loss of licence for Category 2 and 3 offences.

Upon detection of driving with a Category 2 or 3 BAC (which may occur as a result of an alcotest, breath analysis or through the analysis of a blood sample from a driver who attends a hospital as a result of an injury acquired in a motor vehicle accident) police will issue the person with a notice of immediate licence suspension or disqualification that will come into effect immediately. The suspension or disqualification will be in effect for up to:

- 6 months in the case of a Category 2 offence; and
- 12 months in the case of a Category 3 offence

or until the matter is dealt with by a court, whichever is sooner.

The suspension/disqualification periods of 6 months for a Category 2 and 12 months for a Category 3 offence have been chosen as these are the minimum disqualification periods a court can impose for a first drink driving offence within these categories.

The effectiveness of such a sanction, compared to higher fines, lies in the use of licence suspension and disqualification (which is generally regarded by the research literature to be the most effective sanction for deterring drink driving) and particularly in the immediacy of the application of a sanction.

The certainty of punishment and the speed with which the judicial system can process drink driving convictions influences the effectiveness of the sanction in reducing drink-driving recidivism.

Furthermore, the evidence of the effectiveness of licence suspension and disqualification is well documented. In one study, quoted by the Monash University Accident Research Centre in its review of the scientific literature related to traffic law enforcement, the researchers examined a group of drink drive offenders who had received some form of licence suspension or disqualification compared with a second control group (who had not received a licence suspension or disqualification) after a period of three years. The results for the licence suspension/disqualification group compared to the control group showed a significant reduction in the total number of road crashes, for first and multiple offenders and a reduction in the number of repeat drink driving charges for first offenders.

Offenders whose drink driving offence was expeditiously processed through the courts have been shown to have lower re-offence rates than those experiencing long delays. Conversely, the deterrent effects in reducing recidivism can be significantly undermined and negated when there is a long delay between the detection of the offence and imposition of the sanction.

Currently, many offenders charged with a drink driving offence do not appear in court for weeks, and sometimes months, during which time they continue to drive. In addition, some offenders facing serious charges can delay conviction for considerable lengths of time by engaging in lengthy legal argument that can result in cases being repeatedly stood down for legal consideration. Until the matter is settled the person is free to drive and in some cases the offender has again been apprehended driving with a BAC above the legal limit.

This proposal will eliminate the time between detection and the sanction of licence disqualification being applied. This in turn will remove the current opportunity to delay legal processes as long as possible in order to keep driving.

Initially this proposal would appear to be severe. However, the decision by a member of SAPOL to immediately suspend a person's driving licence would not be based upon arbitrary or idiosyncratic criteria but on the basis of a **preliminary** alcotest **and** two **evidentiary** breath analyses conducted not less than two nor more than ten minutes apart, in accordance with procedures and standards set out in the *Road Traffic Act 1961*. The accuracy of these instruments is already well documented and accepted by the judiciary. In addition, they must now meet very strict international standard provisions.

Furthermore, a person who believes they have a defence to the offence alleged or that they are guilty only of a lesser offence, will have the right to apply to the Magistrates Court to have the suspension lifted or reduced. On hearing the application, the Court would then have the power to order that the suspension or disqualification be lifted until the criminal charge is dealt with or to order that the period of the suspension or disqualification be reduced.

To ensure that a person is not punished twice, it is proposed that any time served during the immediate licence suspension or disqualification period would be deducted from a period of disqualification imposed on conviction for the offence.

It must be emphasised that the proposal does not remove the right of the person to defend the charge in a court of law.

In order to prevent a person attempting to circumvent the immediate loss of licence sanctions for drink driving by refusing to provide a breath sample or submit to a blood test after an accident, those offences are also to be subject to immediate suspension or disqualification. The sanctions in these circumstances will be comparable to driving with a BAC of 0.15. A person who is subjected to the immediate suspension or disqualification in these circumstances will have the same right to apply to the Magistrates Court for removal or reduction of the sanction as exists in relation to Category 2 and 3 offences. Any time served on the suspension or disqualification will be deducted from the disqualification imposed by the court on conviction for the offence.

Although the Road Safety Advisory Council, initially recommended the immediate loss of licence for drink driving with a BAC of 0.15 and above, the Bill proposes to also include drivers detected with a Category 2 BAC range (0.08 to 0.149). This approach has been subsequently endorsed by the RSAC.

The reason for this is straightforward. Category 2 offences accounted for **47 per cent of all detected drink driving offences** in the period 2000 to 2003 inclusive, whilst Category 1 accounted for 25 per cent and Category 3 for 28 per cent of offences. Furthermore, in the same period the incidence of detected Category 2 offences rose from approximately 1 800 in 2000 to 2 500 in 2003.

Category 1 drink driving (0.05 to 0.079 BAC) carries with it licence disqualification on expiation where the person has previous offences. The imposition of immediate loss of licence for Category 3 offences, with no changes to Category 2 offences would create a significant disparity in the way drink driving offences are dealt with. The lower and higher penalties would attract licence disqualification imposed upon expiation (in the case of Category 1) or licence suspension or disqualification on detection (in the case of Category 3) but a person detected drink driving in the mid range would be free to continue driving for months until a Court imposed a period of licence disqualification.

Furthermore, the upward growth of the incidence of Category 2 offences would not be addressed, sending a contradictory message to the community suggesting that driving with a Category 2 BAC (0.08 to 0.149) is not as serious as either a Category 1 or 3 offence.

The third issue dealt with by the Bill relates to Category 1 BAC offences.

The drafting of this Bill has presented an opportunity to correct an unintended consequence of an in house amendment to the *Statutes Amendment (Road Safety Reforms) Bill 2003*. The 2003 Bill as originally introduced, proposed licence disqualification on the expiation or conviction of a Category 1 drink driving offence (BAC of 0.05 to 0.079). The disqualification period for the first offence was to be 3 months. Subsequent offences would attract increased periods of disqualification (second offence 6 months, third and subsequent offences 12 months.)

However, the proposed regime was amended by Parliament, so that expiation, or conviction by a Court, of a first Category 1 offence would not attract a period of disqualification. An inadvertent consequence of the amendment has been that the Registrar can only issue a licence disqualification for a category 1 drink drive offence where the offender has previously been convicted of two drink drive offences (of any category) within the prescribed period. So, for example, it would be possible to receive many expiation notices for several Category 1 drink driving offences during the prescribed period of 3 years without ever attracting a period of disqualification. As it is clear from the Hansard record of the 2003 debate in the Legislative Council, this clearly was not Parliament's intention.

The *Statutes Amendment (Drink Driving) Bill 2004* proposes to put in place a package of tough new measures, consistent with the recommendation of the Road Safety Advisory Council, that will halt the increase in drink driving and in doing so benefit individuals, their families and the community through a decrease in injuries and fatalities associated with motor vehicle crashes in which alcohol is a contributing factor.

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 *Motor Vehicles Act 1959*
4—Amendment of section 81C—Disqualification for certain drink driving offences
Section 81C provides for licence disqualification where a person expiates a category 1 drink driving offence if the person has certain previous convictions (for driving under the influence of alcohol, driving with the prescribed concentration of alcohol in his or her blood, refusing to comply with directions in relation to a requirement to submit to an alcotest or breath analysis or refusing to comply with a request to submit to a compulsory blood test). At the moment, the section only operates where the person has previously been convicted of at least 2 of these offences. This clause amends section 81C to provide that previously expiated offences will be also be counted as previous offences for the purposes of the provision and to lower the threshold for application of the provision from 2 previous offences to only 1 previous offence. Therefore, under the provision as proposed to be amended, the person expiating the category 1 offence will be disqualified for 3 months if they have been convicted of, or have expiated, 1 previous offence; for 6 months if they have been convicted of, or have expiated, 2 previous offences; or for 12 months if they have been convicted of, or have expiated, more than 2 previous offences.
5—Amendment of section 93—Notice to be given to Registrar
This clause amends section 93 consequentially to clause 9 of the measure. Under the amendments proposed by clause 9, the Magistrates Court is empowered to make certain orders relevant to licence disqualification or suspension. This proposed amendment would ensure that details of such orders are passed on to the Registrar of Motor Vehicles.
Part 3—Amendment of *Road Traffic Act 1961*
6—Amendment of section 47E—Police may require alcotest or breath analysis
Currently section 47E of the principal Act provides that a member of the police force may require a person to submit to an alcotest or a breath analysis, or both, if the member believes on reasonable grounds that the person, while driving a motor vehicle or attempting to put a motor vehicle in motion has committed an offence of contravening, or failing to comply with, a provision of Part 3 of the Act of which the driving of a motor vehicle is an element (excluding an offence of a prescribed class); or has behaved in a manner that indicates the person's ability to drive the vehicle is impaired; or has been involved in an accident. Performance of the alcotest or breath analysis must be commenced within 2 hours of the event giving rise to the member's belief. A member of the police force may also require an alcotest of a driver of a motor vehicle approaching a breath testing station or of a driver of a motor vehicle during a prescribed period. If the alcotest indicates the prescribed concentration of alcohol may be present, a member of the police force may, within 2 hours after the vehicle is stopped for the purpose of the alcotest, require and perform a breath analysis. The proposed amendments would allow a member of the police force to require a person to submit to an alcotest or breath analysis, or both, if the member believes on reasonable grounds that a person is driving, or has driven, a motor vehicle; or is attempting, or has attempted, to put a motor vehicle in motion; or is acting, or has acted, as a qualified passenger for a learner driver. The requirement may be made at a breath testing station or at any other place and the limitation relating to "prescribed periods" is removed. The section retains a requirement that an alcotest or breath analysis must not be commenced more than 2 hours after the relevant conduct giving rise to the requirement to submit to testing and provides that any requirement to stop a vehicle must be issued by a uniformed police officer or by a police officer in a marked police vehicle.
7—Amendment of section 47GA—Breath analysis where drinking occurs after driving
This clause is consequential to the amendments proposed in relation to section 47E.
8—Insertion of sections 47IAA and 47IAB
This clause inserts new sections as follows:

47IAA—Power of police to impose immediate licence disqualification or suspension
This proposed provision would allow a member of the police force who reasonably believes that a person has committed a category 2 or 3 offence, an offence against section 47E(3) or an offence against section 47I(14) committed by a person who was the driver of the vehicle involved in the accident, to give the person a notice of immediate licence disqualification or suspension. This notice would have the effect of suspending the person's driver's licence (which, in the *Road Traffic Act 1961*, is defined to include a learner's permit) or, if the person does not hold a driver's licence, disqualifying the person from holding or obtaining a driver's licence. The suspension or disqualification operates from the time the notice is given until proceedings for the offence in relation to which the notice was issued are determined by a court or until such proceedings are withdrawn or discontinued or the Magistrates Court makes an order under proposed section 47IAB that would have the effect of ending the suspension or disqualification (but the period must not, in any case, exceed a maximum period of 6 months for a category 2 offence or 12 months for any other relevant offence).

The Commissioner of Police is required to notify the Registrar of Motor Vehicles of a notice given under the provision, and the Registrar is then required to send, by post, a notice to the person of the name and address provided by the Commissioner containing particulars of the notice of immediate licence disqualification or suspension.

The provision also provides that a period of suspension or disqualification under a notice will be counted as part of any period of disqualification imposed by a court in sentencing the person for the offence and provides that no compensation is payable in respect of a notice other than one issued in bad faith.

47IAB—Application to Court to have disqualification or suspension lifted
This provision would allow a person to apply to the Magistrates Court for an order—

- that the person is not disqualified or suspended by a notice under section 47IAA—this order may be made if the Court is satisfied, on the basis of evidence given by or on behalf of the applicant, that there is a reasonable prospect that the applicant would, in proceedings for the offence to which the notice relates, be acquitted of the offence and the evidence before the Court does not suggest that the applicant may be guilty of another offence to which section 47IAA applies; or
- reducing the period of disqualification or suspension under such a notice—this order may be made:

(a) if the offence to which the notice relates is a category 2 or category 3 offence that is a first offence and the Court is satisfied, on the basis of evidence given by or on behalf of the applicant, that there is a reasonable prospect that the applicant might, in proceedings for the offence to which the notice relates, successfully argue that the offence was trifling (in which case the period must be reduced to a period of 1 month, consistently with the approach to trifling offences in section 47B); or

(b) if the offence to which the notice relates is a category 3 offence and the Court is satisfied, on the basis of evidence given by or on behalf of the applicant, that there is a reasonable prospect that the applicant would, in proceedings for the offence to which the notice relates, be acquitted of the offence but the evidence before the Court suggests that the applicant may be guilty of a category 2 offence (in which case the period must be reduced to a period of 6 months).

A copy of the application must be served on the Commissioner of Police and the Commissioner is a party to the proceedings. If the Commissioner does not appear in the proceedings the clerk of the Court must notify the Commissioner of the outcome.

Schedule 1—Transitional provisions
The Schedule ensures that the amendments to section 81C of the *Motor Vehicles Act 1959* will not apply in relation to offences expiated prior to the commencement of the amendment.

Mrs REDMOND secured the adjournment of the debate.

SITTINGS AND BUSINESS

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I move:

That the house at its rising adjourn until Monday 8 November at 2 p.m.

Motion carried.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 October. Page 460.)

Mrs REDMOND (Heysen): Sir, may I say that I am pleased to see a 60 minute time limit. I think that I can happily assure the house that it will be considerably shorter than that given—

The SPEAKER: As little or as much as is necessary, the standing orders provide.

Mrs REDMOND: I am delighted that they do. It is my pleasure to inform the house that the opposition will be supporting the proposed amendments of the government. They are a couple of straightforward amendments. I should also inform the house that a small amendment is proposed by the opposition, and I understand that the government will be agreeing to our proposed amendment. They are three very brief amendments. The first simply relates to a slight anomaly that has been discovered, I understand, by the Crown Solicitor's office. In looking at this bill it was discovered that, under the former Maintenance Act of 1926, children were not placed under the care or guardianship of a minister in the circumstances that we are talking about in this bill but, rather, were placed under the control of the Children's Welfare and Public Relief Board, and that continued to be the case until 27 January 1966.

Although that is almost 40 years ago, nevertheless, there is the possibility that when the inquiry commences the Commissioner may well find that he has people wishing to give evidence before him who were wards and placed under the care of the Children's Welfare and Public Relief Board, and that they therefore need to have the act extended to cover their situation. In our view, that amendment is uncontentious and just sensibly covers people who otherwise might be excluded simply because of that change in the name of the mechanism by which children were placed under care prior to that date in 1966. We have no difficulty with that amendment.

The second amendment—and, again, we have no difficulty with it—relates to the fact that the Commissioner appointed (Justice Mullighan) raised a concern that, under the act at the moment, the Commissioner conducting the inquiry must refer information concerning a sexual offence against a child to the Commissioner of Police or the DPP. Whilst in most cases that may well be appropriate, it is thought that this might be circumstances in which someone who wishes to give evidence specifically does not want to have the matter referred to the Commissioner for Police or the DPP.

The proposed amendment simply provides that the information provided to the Commissioner does not have to be provided to the Commissioner of Police if the victim has asked the Commissioner not to provide the information to the police or to the DPP, subject to the exception that he can hand it on if he considers it in the public interest to do so. That is to try to give sufficient flexibility to protect, in particular, victims coming before the commission. It has been worded so that it is really at the discretion of the victim, other than in the case of a situation where the Commissioner believes that it is necessary in the public interest to refer it.

That clause, and the wording of it, was what gave rise to the amendment, which the opposition will be proposing and to which, I understand, the government will agree, and which has been discussed with the Commissioner. Equally, with the matters being referred to the Commissioner or the DPP, there seemed to be the possibility that there could be matters which already had been referred to the police, prior to the witness coming to give evidence, but which had not been thoroughly investigated or followed up appropriately by the police. The amendment proposed by the opposition is simply to cover that situation so that, notwithstanding a matter has been referred previously to the police, the Commissioner can still refer it if it has not been recently considered; perhaps considered some time ago and written off by the police as not something that the police considered was going to be properly and thoroughly investigated and followed up.

The reason we discussed this with the Commissioner was because we wanted to ensure that those situations were covered, where people came to the commission and specifically did not want to go to the police. So they had the protection of being able to give evidence to the commission in a comfortable situation and not have to necessarily go through the burden of a full-blown police investigation and subsequent prosecution; because there may be people who do not wish to expose their lives and families to that whole process but who have other motives for coming before the commission. Equally, where people had gone to the police previously and felt that their matter had not been properly followed up by the police, or the police had been dismissive of it, then those people, if they wish to pursue it via a police inquiry, can have the Commission refer the matter on.

The three amendments—two from the government in the bill and one further amendment by the opposition, which has been tabled, I understand—are aimed at ensuring the flexibility of the system will be adequate to protect people, who wish to have protection and anonymity, but, at the same time, allow certain matters to be referred to the police if it is considered that they need to be investigated again, even if the police have been somewhat dismissive on the first referral.

When one looks at other investigations, for instance, the case of the Anglican inquiry, it seemed to me in reading that inquiry that a number of people would have given evidence to that inquiry, whose evidence, of itself, was not sufficient to mount a prosecution but, nevertheless, the nature and pattern of the evidence coming before the inquiry would have been so consistent that, in regard to the activities of certain individuals, it was appropriate for the police to further investigate. On an individual basis the police would not be able to successfully mount a prosecution, but the weight of the evidence, when one hears from a series of people, all of whom are naming a particular individual, could nevertheless be overwhelming. For those reasons we are comfortable with the proposal of the government in terms of the two clauses in the bill to be amended. In due course I will move the amendment to clause 4, as proposed by the opposition. I expect that the government will agree to it.

Mr BRINDAL (Unley): With my colleague and friend, I rise in support of these matters as better clarifying the inquiry about to be heard by Justice Mullighan. All of what

the shadow minister said makes sense, but something that struck a particular chord with me was that some of these provisions are necessary because of the change of time and, then, the change of circumstances of the victims. This house, in considering this bill, and the minister in talking about it, was very clear to say that this is a bill about giving a better system; to look at what went wrong and to provide a better system for all young South Australians in the future. Equally, it is a bill about providing justice to some South Australians who were very seriously wronged, while state government at the time, instrumentalities at the time and, indeed, the general citizenry at the time were more than prepared to turn their head and ignore whatever evidence there was, or pretend that the whole affair was not happening.

Against that background, the evidentiary provisions of those times, I would remind the minister, were entirely different, and the ability of a child—and often it was a child—to appear in court to give evidence under the full rigour of the law, and prove to the court's satisfaction that a person was guilty beyond reasonable doubt—because that is the standard of proof in criminal matters—was very difficult. This brings to mind what the shadow minister was talking about: those cases the police may well have investigated, where police had formed in their own minds and hearts the opinion that the perpetrator was guilty, but where the police or prosecutors knew, for one reason or another, a successful prosecution could not result; indeed, where parents or carers in some cases, knowing that an abuse had occurred, weighed up the situation very carefully and thought that in the child's best interests it was better to help the child move onwards, rather than subject them to a horrendous legal process where the perpetrator might not ever be convicted and the child would be further abused, albeit accidentally, by a system which was, and remains, committed to the presumption of innocence and to the testing in an adversarial manner of those who would accuse someone of some wrongdoing.

I think that is germane to these changes: because the evidentiary provisions have changed, the onus of proof has changed. Indeed, the whole notion of the Mullighan inquiry is that it will give victims the right not to have to establish beyond reasonable doubt and not even to have to establish (because it is not a court of law) the balance of probabilities, but only establish in the mind of His Honour whether it is a feasible and reasonable likelihood that the thing would have occurred. That is all that is necessary. And for many of the victims about whom I have spoken, that is all that they want.

I think there is a great fear amongst some of us in this chamber, and amongst some of us in South Australia generally, that this is all about people seeking money. In fact, a lot of it is about people who went to their churches, who went to their bishops, who went to people whom they trusted and asked for some understanding and compassion but received none. Their anger spreads not so much from what happened to them but from the denial of what happened to them, and the absolute intransigence of authorities at all levels to do anything other than what their insurers and their lawyers told them.

The bitterness, the hurt and the pain that many of these people suffered is not only attributable to those who did them great wrong in terms of sexual matters, it is also attributable to those institutions who did them even greater wrong by turning a blind eye and a deaf ear to their plight. They were wronged, they appealed to a society and to institutions from which they thought they could seek succour and redress, but they received none. In many ways, that crime is more heinous than the others, and that crime—

The Hon. M.J. Atkinson: At last, a member of the Opposition who can pronounce the word heinous.

Mr BRINDAL: I could make a very crude comment, but I will not. That is important, and I would like to say to the house that in this instance the shadow minister speaks for me as part of her team, but she does not speak for me. This is an individual matter for 47 members of this house, and it is a matter of great moment for us all. So, while she speaks for me as a member of the Liberal team, I need to be satisfied on all these measures—as I hope every Labor member and everyone else on this side of the house will be. She speaks for us as a team but she does not necessarily speak with one voice for us all.

That is why I am very pleased that the minister and his staff have sometimes called my office and said, 'What do you know about such and such?' He has been very open, and I give him absolute credit for listening to people, whoever has a story. I think, sir, that your office and your officers have also been approached by the minister's staff to find out what you think needs doing and how the minister can assist, and that is to his credit.

Similarly, I have to give great credit to the shadow minister. Members would relate to the fact that in this place you can be here for a long time but when you leave there are very few people whom you would actually want to see or invite around to your home the day after you left. The minister, in fact, is one whom I would be honoured to have as a friend of mine after I left this place, as are a few of the people opposite.

The Hon. M.J. Atkinson: Name them!

Mr BRINDAL: They know who they are; they do not need to be named. They wear badges of honour sometimes.

The instance I wanted to quote—because this touches on the general humanity of these amendments and why they need to be strongly commended to the house—was a grandfather who approached me who, as a child, was systematically abused in a number of state-run institutions. He has never told his wife or his children, and his grandchildren certainly do not know. He has borne this as a private burden for something like 50 years, but he is quite prepared to come forward and assist Justice Mullighan and tell his complete story. However, he is not prepared to tragically rewrite the story of his family.

I think every member here can imagine what it would be like to be married to a woman for 50 years and keep something from her, because it was so private that he could not divulge it, and then not only to have to tell his wife, but also to risk seeing it in the paper and having his children and grandchildren know—basically to rewrite his life. He has said that he is quite prepared to help Justice Mullighan, but he is not prepared to risk his wife, children, grandchildren and the public image of his life to do that.

This amendment fixes that and I think it is, therefore, to be highly commended. As the minister knows, the danger that some members of the opposition saw was that if you gave anyone, even a judicial officer, discretion they could exercise discretion and they might not choose to report something which otherwise we might think should be reported. It is not a concern I share, because I think this matter is so public and His Honour enjoys such a fearsome reputation that he would not risk that by senselessly covering up things that I think would be almost impossible to cover up, anyway. I rely on his integrity, his years as a jurist and, indeed, his decency as

a human being to tell the people of South Australia that which they need to know.

Nevertheless, there are a few who, perhaps being a bit more sceptical than the minister and I, and perhaps even the shadow minister, want a few assurances. I think this suite of amendments gives exactly the right balance. It protects victims, it gives them the opportunity to go forward if they want to go forward, and it encourages Justice Mullighan to be as open and transparent as he can be—although I am sure he needs no such encouragement.

In essence, I think this makes a better bill and I commend it to the house. I am just sorry that we did not think about these things at the time—especially the trite change that was the name it was in 1935 or whenever. It is a very small thing, but that is what happens when we are passing legislation. I commend the amendments to the house.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank honourable members for their contributions, and I share many of the sentiments that have been expressed by both the shadow minister and the member for Unley. Of course, the essence of this inquiry is a healing process, and crucial to that is to give people a forum at which they can tell their story. The telling of a story in a way which is respected and honoured is itself part of the healing process. The essence of these amendments is to ensure that as many people as possible can come forward sure in the knowledge that their views about how far these matters can be taken will be respected. Of course, there is always a need for a discretion to be contained within any exercise in the provision of information for the police. It may be that there is some information where there is such an overriding public interest that a person's stated wishes about not wanting the information to go to the police would simply be unconscionable not to pass on; for instance, if it was information that led to a conclusion that many other children could be at risk if that information was not handed quickly to the police. That is the delicate balancing act; that is why a discretion has been placed in there, rather than simply saying that the person who is giving the information has an absolute right of veto over whether or not the matter goes to the police.

Bill read a second time.

The SPEAKER: Notwithstanding the remarks which I as the member for Hammond have made on the matter in the second reading of the principal act as it now stands, at the time that was a bill in this chamber, there are still other matters that I feel compelled to put on the record, and to remind honourable members about. They are relevant, indeed germane to the reason for my disturbance about what this legislation will provide that has not been disclosed or addressed by any of the remarks made by the minister or the other two speakers in the second reading.

We are here not talking only about physical and sexual abuse, we are also talking about the system's abuse, and the system's abuse of the lives of those who were also sexually and/or physically abused and the way in which they have been dealt with. Before going further in that direction, and to enable the house to, perhaps, better understand the reason for my strength of feeling about these matters, can I, on a personal level, without wishing to become emotionally distraught about it, confirm that more than once this has touched my life, and did so well over 50 years ago in the first instance. It was not continuing experience from the same source. However, I have fellow feeling for those other victims.

The system abuse to which I refer has occurred, not just within the church in the way in which the member for Unley, in this instance, and other honourable members in the debate on the principal act, as it now stands drew attention, but system abuse within the state itself. It is a system abuse not just within that organisation, whatever it may have been called from time to time over the last 50 years, which had responsibility for caring for those children and adolescents who were abused, but system abuse coming from other trusted members of various agencies in the public sector, such as the police, the education department, the health and hospitals system, and such as people who were trusted to go into private institutions who, through their work, were public employees of one kind or another. Remember, the Adelaide Children's Hospital used to be a private institution.

In addition to that, the system's abuse has occurred because those people, in those positions of trust, to my certain personal knowledge, deliberately had their offences—the most heinous offences—covered up because of their standing, and their word being taken against the word of the victim, whatever the age of the victim, or being taken against the word of the victim's advocate, whatever the age of the victim's advocate, or, worse still, where evidence was corroborated by more than one person at the time, and they were simply ignored.

Even if they got the matter to the point where it may have been given credibility, there were people in the system in the courts, of whom we now have some knowledge, who, in turn, were allowed to go free, and the victim's life further trashed, and their confidence in the structure of the public administration systems, as well as those other pillars of society, so-called, destroyed in the process. Remember what we thought about the Nemer case as it was debated in this place, regardless of the argy-bargy across the chamber, and the way in which it was seen that the Director of Public Prosecutions office might have done things differently, and other similar cases where the Director of Public Prosecutions office found it simpler and easier to take a guilty plea to a lesser charge than go through a long, drawn out investigation and trial to obtain a verdict of guilty against someone for whom there was the likelihood of being found guilty. Why ever that happened is not the subject of my remarks. It did happen, and that is the subject of my remarks, and it is not disputed, I trust, by any member in this place or the other place, for if it is disputed, then what we have done to the Director of Public Prosecutions' immediate past and that office has been done improperly.

I go further. The perpetrators who have done it have, more often than not, indeed, in almost every instance, more than 90 per cent of cases, had their word taken in trust against the victim, simply because the victim lacked the power. And worse still, the victim was seen as a ward of the state, having been abused found it difficult to accept the direction of those who had responsibility for their care and control and direction for what they would do in life, and that too was abuse, to the point where they decided that they had to get out of those institutions and away from the people that were abusing them, because they could not sustain it emotionally.

I do not blame them, and they were not trusted. They nonetheless took the only course of action open to them and broke the rules of the institution in which they were incarcerated. There is no other way to describe it. They were not in protection and, having broken the rules and left the institution, they were then accused of crimes for breaking the rules and, what is more, they were found guilty of those crimes

because they were counselled to plead guilty—and they had a criminal record from that day forward. Their word was not taken against people who further abused them as they passed on in years. Many of them have suicided.

One way or another, what has happened has caused us to come to this pass. However, the fashion in which we have set out to solve the problem is not adequate in my judgment, and I will continue through this last past of this dissertation, which comes more from the heart than the head. How can it be that we use people who were seen as professional in the service, who knew of accusations against victims, and indeed knew of the charges that were brought against victims, for crimes which they never committed but of which they were found guilty in the courts—and that includes Justice Mullighan himself, as a judge, and as a lawyer before he became a judge.

How can we expect those people who are victims to now trust that particular narrow commission to deal with them any differently to the way in which they have been dealt with? That is the reason for my having called for this inquiry well over two years ago in this parliament. For as long as I have been here, I have alluded to it.

I understand those victims, and that is why I invite them to come to my office, and that is why I know they will not appear before this commission. They and I see it as tainted and know it to be, more likely than not, possible for it to happen. How can honourable members now sit here and say that it is a good thing that someone who is not going to be held to account for the decision—and that is the adviser to Justice Mullighan, or Justice Mullighan as he is now as the commissioner—to be allowed to decide what to pass on to the Police Commissioner and what not, and to say that he did not pass something on because he was asked not to? He can choose what to pass on, and what not to pass on, and I do not accuse him in advance of doing so.

However, the victims know how the system has treated them, those of them who are still living, and those of them who have not committed suicide—and I use that word advisedly. Some of them, certainly, have taken their own lives, but others have had the cause of death noted as suicide when it is believed amongst those who know them that it was not—it was homicide.

How, therefore, can you expect those remaining to believe that we now have a structure in which we can have faith, when we refused to put into that structure people, who are nonetheless well-trained and well-qualified, should have come, and been chosen, from outside the system itself, so that they were completely anonymous to the victims as well as those accused by the victims? That would have given the victims faith and confidence. Well, if this system does not inspire their confidence—and it does not inspire mine—and I know many of them who have told me this, there is another way, and I will help them find it.

We have not understood the pathology of the situation or the risk there is for those still in authority and positions of power to abuse it. Those people who are coming forward, it ought to be noted, are in greater number the older members of the community who are still those victims who feel such fear about the consequences of disclosing what has happened to them because they are carers for minors or others who depend on them, and they are not yet old enough to feel release from that responsibility, where they have been able to make something of their lives. So, they are yet in their twenties, thirties and, late forties even, and not free in their own assessment of their circumstances to make disclosure.

I do not have the confidence that other honourable members have that either the principal act or these amendments to it will increase the measure of confidence that victims can have that justice will be done this time. I do not approve of a system which ostensibly allows a decision to be made simply not to disclose and not make it in any sense accountable. I thank honourable members for their attention.

Mrs REDMOND: I have a question in that regard, because as I understand it, the government will be agreeing to our amendment. The only reason for going into committee is to put in one amendment that I will be moving. I do not know whether it is orderly to get around that in a quicker, more effective way. However, if that is the case, we wish to go into committee.

The SPEAKER: It is a requirement for the house to resolve itself into a committee of the whole. I call on the Clerk.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

Mrs REDMOND: I move:

Page 2, after line 12—
Insert:
(1) Section 10(2)(a)—after 'a police officer' insert:
and has been recently considered or investigated (or reconsidered or reinvestigated) by the police

In section 10 of the act as it appears, there is a provision that says:

The Commissioner must, under an arrangement established with the Commissioner of Police, provide to the Commissioner of Police any information concerning the commission (or alleged commission) of a sexual offence against a child arising during the course of the Inquiry unless—

either of two circumstances occur. The first is:

The Commissioner has reasonable grounds to believe that the information has already been reported or provided to a police officer. . .

What we will be inserting are the words:

. . . and has been recently considered or investigated (or reconsidered or reinvestigated) by the police.

The first part of that of course is already amended by clause 4 of the bill as introduced by the government which amends section 10. We simply wish to add the words appearing in the amendment.

The Hon. M.J. WRIGHT: The government supports the proposed amendment.

Mr BRINDAL: In view of the support of both sides of the house, I move:

That the motion be now put.

Motion carried.

Amendment carried; clause as amended passed.

Clause 5 and title passed.

Bill reported with an amendment.

Bill read a third time and passed.

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on second reading.

(Continued from 15 September. Page 46.)

Mr SCALZI (Hartley): This is a very important bill. I am disappointed, I must say from the outset, because my

understanding is that the government is not giving its members a conscience or a free vote on this very important issue.

Mr Brindal: Why should it?

Mr SCALZI: Because the bill will affect another 80 acts. It is important that issues such as this, which affect the community in a way that will impact on many aspects of family life, relationships, marriage and de facto relationships be properly investigated.

We were in this place until 4 o'clock this morning debating gaming machine legislation. I was pleased that the Premier said it was a conscience vote, even though in actual fact it did not take place in all aspects of the bill. We found out how much of a conscience vote it was when it came to the sections on smoking where members of the government were directed to vote the party line and were told that this is not a conscience vote. Anybody who was here this morning would have witnessed that very fact.

Mr Acting Speaker Snelling, I have given notice that this bill should be referred to the Social Development Committee. I have done so for the same very reasons that I said in June last year when the Equal Superannuation Entitlements for Same Sex Couples Bill by the member for Playford was passed and became law—not because it did not address anomalies but because it did so in a limiting way that did not take into account other caring relationships. I believe that we are going down the same path if we do not refer this to the Social Development Committee. Perhaps some of the members might remember a press release that I put out last year entitled '2 345 petitioners ignored as same-sex legislation passes without conscience vote and without full investigation of cost.' It states:

> The Equal Superannuation Entitlements for Same Sex Couples Bill with amendments made by the Legislative Council was accepted by the House of Assembly and passed into law on Wednesday 4th June.
>
> On 30th April 2003 a petition signed by 2 345 residents of South Australia had been presented to the Legislative Council requesting that it refer the Bill to the Social Development Committee for full investigation of cost and implications arising from the Attorney-General's Discussion Paper on removing legislative discrimination against same-sex couples. A further 420 signatures were subsequently received by the LC. This petition was endorsed by Archbishop Wilson on behalf of the Catholic Church in South Australia and also received strong support from other mainstream Churches.
>
> The main petition was collected over a period of a little over a week, indicating a very strong community response on this issue. Petitioners voiced their concern that the Same Sex Superannuation Bill should be seen in the context of social policy approach aimed at removing all legislative discrimination against same-sex couples, as discussed in the Attorney-General's Discussion Paper.

As we know, the consultation period for this paper closed on 7 April last year. Since that report, the Attorney-General has introduced this bill, but we do not know the full impact of those submissions and what they contain. I am told that over 50 per cent of the submissions opposed going down this path. Many people in the broader community in South Australia do not agree with same-sex superannuation. I understand that is the law, and I accept the will of the house: the parliament has voted for that legislation on superannuation.

I remember only too well that, when the member for Florey introduced her bill, she said, 'This has nothing to do with marriage; it is only to do with superannuation.' This legislation, introduced by the government, will impact on 80 acts of this parliament. So, it is not limited just to superannuation. If so many petitioners were concerned just with superannuation, how much more is it our responsibility to refer the present bill to the Social Development Committee so that we can look at its full impact?

Mr Brindal: How many people signed this petition? It was a lot more than 2 000. Two thousand names! I could get 2 000 for a new toilet in Unley.

Mr SCALZI: The member for Unley is flushed with comments, but they do not make sense. I think we have to be sensible and approach this on the basis of human rights. If there are areas of discrimination, if there are laws which impact on an individual's right to superannuation or employment, on the right to join an association, or on their standard of living or access to health, I would be at the vanguard of protecting that individual's rights (regardless of his or her sexuality). However, we are not talking about basic human rights here; we are talking about introducing legislation that will impact on 80 different pieces of legislation which are structured in such a way that the community over a long period of time has accepted them. You cannot change all these community accepted laws overnight without having a proper and thorough investigation of the impact of those changes.

I attended the briefing at the invitation of Matthew Loader of the Let's Get Equal Campaign. People are discriminated against at times because of their sexuality. I do not support discrimination.

The Hon. M.J. Atkinson: Yes, you do; you support justified discrimination.

Mr SCALZI: The Attorney-General is correct: we cannot organise any society without having some form of justified discrimination. I have received a number of letters in which many people have put a very good case urging us to support the bill because of unfair discrimination that occurs. They support the granting of recognition to same-sex partners, as has happened in other states, reducing the cohabitation period for all de facto partners from five to three years, and replacing the existing terminology of 'putative spouse' with a new term 'domestic partner'.

Many people would say that that is a fair thing to do but, equally, many people have shown great concern with this legislation. They are concerned about what will be the impact on the status of marriage by deleting the word, 'spouse'. The Attorney-General would have to agree that, time and again, the word 'spouse' is deleted throughout the legislation, and I note that he does not interject because that is true, it does delete the word 'spouse'.

The Hon. M.J. ATKINSON: I rise on a point of order, sir. I have just been accused of approving or not approving of something in the member for Hartley's speech because I failed to interject. I failed to interject because interjections are out of order.

The DEPUTY SPEAKER: The Attorney-General has made his point in a roundabout way.

Mr SCALZI: People who have written to me say that young people are less likely to see a reason to get married, and they are concerned about the impact that will have on family values. At least half the submissions received by the government inquiry last year opposed changes. That is what I am receiving in my correspondence, and I am sure that many other members are, too. Special rights are given to two men and two women who have a homosexual or lesbian relationship and it discriminates against two men and two women who live together in a domestic co-dependent relationship but who do not sleep together.

Mr Brindal: It is not compulsory. I know some married couples who do not have much sex.

The DEPUTY SPEAKER: Order! It is not compulsory to interject, either. The member for Unley will refrain from interjecting.

Mr Brindal: It is difficult.

The DEPUTY SPEAKER: It can be for the member for Unley, I acknowledge that. The member for Hartley.

Mr SCALZI: I will try not to respond to the interjections. I will restrain myself. The problem is that it has been made clear by the federal parliament that marriage is between a man and a woman at the exclusion of all others. That is the law in Australia, and the federal law states that. The definition of marriage is between a man and a woman. We have just had an election—

Mr BRINDAL: I rise on a point of order, sir. I will take your ruling, sir, and I will try not to interject but, if I do not interject, the standing orders bear on my mind, and there is a standing order as to relevance. We are not debating federal law or the institution of marriage: we are debating a proposition brought by the Attorney-General which does not concern marriage.

The Hon. M.J. Atkinson: Let him develop his argument.

The DEPUTY SPEAKER: Order! The member for Unley is seeking a very narrow interpretation. The member for Hartley is trying to make a linkage in relation to aspects of commonwealth law, and I think that he is entitled to do that. The member for Hartley.

Mr SCALZI: I would like to thank the member for Unley because the very motion which he amended and which was passed unanimously by this chamber stated that marriage was between a man and a woman, and the chamber noted that. I thank the honourable member for his interjection, because I know that the member for Unley understands that marriage is between a man and a woman. We had a federal election and the Prime Minister and the federal parliament are quite clear on same-sex marriages. How can South Australia have legislation which will delete the word 'spouse'? If that is not interfering with the definition of 'marriage' through the backdoor then I am a dunce.

You cannot delete 'spouse' and substitute 'domestic partner' and not say that that is not reflecting on the institution of marriage. What concerns me is that this legislation will discriminate against the broader community—people who are not in sexual relationships. It says that unless you are in a heterosexual relationship, unless you are in a same-sex relationship, your value as a human being is not the same because the law is based on sexuality.

Members interjecting:

Mr SCALZI: If the members who are interjecting can assure me that two brothers, two sisters and two friends who are in a domestic co-dependent relationship will have the same rights as a domestic partner, as outlined in this bill—

Mr Brindal: I will vote for that and then see who undermines marriage.

Mr SCALZI: In summary, I believe that marriage has a special place. The de facto relationship is, in fact, marriage without the contract. Let us accept the fact that people care for each other. Let us deal with discrimination in employment and superannuation. Let us address the specific concerns of the community without changing definitions which have served us well for thousands of years, and without trying to interfere with what Australians clearly accepted in the last federal election. Members fail to understand that when you define you start to discriminate. What will happen to the privacy of individuals?

Mr Brindal interjecting:

Mr SCALZI: It is a positive discrimination, but it is there. If the honourable member would like to change the definition of marriage then he can take that on with the federal parliament.

Mr Brindal: No, I don't want to do that. I never said that.

The DEPUTY SPEAKER: Order! The member for Unley should not interject. The member for Hartley should—

Mr Brindal interjecting:

The DEPUTY SPEAKER: Order! The member for Unley has an opportunity to speak.

Mr SCALZI: I am doing by best as a result of lack of sleep. I urge members to refer this matter to the Social Development Committee, which comprises members with a wide range of views and which is chaired by the Hon. Gail Gago. Its membership includes the Hon. Michelle Lensink, the Hon. Terry Cameron, the member for Playford and me. It would be appropriate for the committee to look at this bill. It would be fair to look at it properly. Let us not again ignore the thousands of signatures that wanted it referred in the past.

Time expired.

Mr HAMILTON-SMITH (Waite): I contribute to this debate at relatively short notice in that the opposition did not expect this bill to be before us today. We expected the Fair Work Bill but, because of the gambling bill and the time it took, this bill has come forward with undue haste. I contribute because I want to make a second reading contribution, and I am concerned that the bill this afternoon may get through the second reading and fall into committee without my having an opportunity to have done so. So, I am here and I want to get some points on the record.

I find this a most difficult bill. I can see the merit of the argument the bill purports to carry. I think at its core there is a compassionate intent within this bill. I think it intends to extend to a group in the community benefits to which they hitherto have been denied—for good purpose and with good intent. But the question is about the device the bill uses, and whether the way in which those benefits contained within the bill are appropriate, fair, reasonable and acceptable to the community at large.

The bill amends very many acts. In fact, I understand that 82 pieces of legislation will be affected. I note that it follows earlier consideration by the house of similar legislation in the form of same-sex superannuation entitlements—which I opposed because I disagreed with the device and some aspects of that legislation in the form it took at the time of the debate. We know that the Family Relationships Act was passed in 1975 and that it extended the notion of spouse to include putative spouse; that is, a person who was not legally married to his or partner but had cohabited continuously for five years or periods aggregating five years during the previous six years, or where a child had been born to the spouses.

However, the existing definition of putative spouse does not include same-sex partners, except under the four superannuation acts which were amended by the Bedford bill (shall we call it) in 2003. It was a private member's bill, although supported strongly by the present Labor government; it was a conscience issue on our side.

Under this bill the concept of putative spouse will be replaced by the term 'domestic partner' in all legislation which refers to spouses. We have a new device introduced in this bill—the term 'domestic partner'. I must say that I find that a more acceptable device than the device used in the superannuation bill, which was to deem same-sex couples

'putative spouse' for all purposes to do with the superannuation bill. I interpreted that to mean that married couple equals spouse, spouse same as putative spouse, and putative spouse same as same-sex couple. The net effect is that A, B, C and D are equal to one another; that is, a same-sex relationship is like a marriage. I had a difficulty with that, because I could not see how you could do so for the superannuation legislation and not for all the other pieces of legislation that are now before us.

I know the government, in bringing forward this bill, has gone to a different device. That is why I will look at the bill in more detail in committee, and I will reserve my right to decide on the bill once I see how it comes out of committee. I will make a few basic points. The raison d'être behind the bill is that somehow same-sex couples are being discriminated against because they do not enjoy all the same rights under law as married couples and that that is inherently unfair.

The argument in the bill is that same-sex couples have a natural right to enjoy the same sorts of legal privileges and benefits as enjoyed by married couples, and that the law, therefore, should be changed. The proponents of the bill—and I thank many of them for writing to me; and I thank those who arranged a briefing for me and others—are of the view that for all intents and purposes a same-sex relationship is like a defacto relationship between heterosexual couples and they should enjoy all the same benefits, not including, of course, rights in regard to marriage—which, as has been pointed out by the government, is a matter under federal law—and adoptions. In fact, the bill recognises, and the government in bringing it forward recognises, that although it wants to redefine same-sex relationships as a form of marriage it does not want to go as far as extending those benefits to adoption and assisted reproductive technologies. It has excluded those.

The government wants to say that same-sex relationships are like marriage, except they cannot adopt and have access to reproductive technologies. I think that is a little bit hypocritical—either same-sex relationships are like marriages or they are not. I think the Attorney was trying to have a bit of a bet each way when he said, in his second reading address, that:

> Speaking for myself, as a Christian, I was saddened that many people felt constrained by their Christian faith to oppose legal equality for homosexual people.

In a sense we want to include same-sex couples as married couples but we are not going to really make it all-inclusive. I think there is a touch of hypocrisy in what has been put to us. If same-sex couples are good enough to be married couples, then I ask the government why have they not included reproductive technologies and adoptions? The reason is obvious: they know that the community reaction to that proposition would be one of hostility and, I think, with good reason. I would not move such an amendment because I do not agree with it personally, I do not think my constituents would and I do not think most in the community would.

That gets us back to the nub of the issue, and I want to put my thoughts on this on the record. I think nature's plan (if I can call it that), or God's plan for many, was that there would be an element of homosexuality within humanity. I think it is the natural way of things for there to be a proportion of relationships that are of a same-sex nature. I think it is an irrefutable fact of life that homosexuality has been with us from the time we have known history, and that there is some natural raison d'etre for that—that is, it is a fact of human existence. But it is another step to say that same-sex relationships are, therefore, the predominant or even normal way of things. An argument can be constructed to cogently put the view that the normal way of things are heterosexual relationships, that the vast majority of people enjoy heterosexual relationships, that the natural state for the family is a man, a woman and children, and that marriages and relationships of these types have been overwhelmingly heterosexual.

So, I do not believe that same-sex relationships are normal in the sense that they are the majority. I think there is a natural component to them and a natural presence, and I accept that, and I am of the view that we should be accepting and tolerant, and should accept same-sex relationships amongst our community and not discriminate unwholesomely against them. But in terms of whether we should extend that argument to say that we should provide all the same legal privileges and rights to same-sex couples as we do to heterosexual couples, I have reservations about taking it that far.

As I mentioned, the bill uses the term 'domestic partner'. The definition of domestic partner is mainly dealt with in clause 74 of the bill, particularly on pages 27 and 28, which sets out the criteria that a presiding officer must determine when considering whether a same-sex relationship is a de facto relationship. It talks about a range of things: the duration of the relationship must be considered; the nature and extent of common residence; whether or not a sexual relationship exists or has existed; the degree of financial dependence and interdependence; ownership, use or acquisition of property; the degree of mutual commitment to a shared life; the care and support children; the performance of household duties, and so on. In essence, to qualify under this bill as a domestic partner one needs to virtually demonstrate to a magistrate that you are in a marriage-like relationship, and I think that inherently implies a sexual relationship. In fact, that is one of the criteria which must be shown.

The bottom line, therefore, is that the bill is, in essence, saying that the status of domestic partner is equal to a marriage. I like the device in the bill and I think it is better than the device used in the superannuation bill, which sought to redefine same-sex couples as putative spouse. I do like the term but at this stage—from my understanding of the bill, and I will pursue this in committee—the bottom line is that it is in effect redefining domestic partners as marriages. In fact, it is taking away the term spouse from most of the legislation which is amended by the bill and putting in this term domestic partner. So, it is getting away with the principle of us recognising marriages for the benefit of these pieces of legislation, and putting in a new term domestic partner, which includes not only marriages but also same-sex couples. It is putting in a new vehicle. If you like, it is taking the orange of marriage out of the legislation and taking the apple of putative spouse out of legislation, and is putting in a new category which encompasses all, which includes same-sex couples in the match—a new item, a third item, which includes everyone. I still have concerns about that device.

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

> That the time for moving the adjournment of the house be extended beyond 5 p.m.

Motion carried.

Mr HAMILTON-SMITH: So, I think the bill needs scrutiny in committee. A factor in consideration of this bill is the message we in the community want to send to children

and to families. I have a lot of sympathy, to be frank, for the argument put forward by the Family First party of asking, in regard to bills such as this, 'Is it good for the family?'

I recognise and feel compassion towards the concerns of same-sex couples, but I have concerns that, if we extend the legitimacy to the 82 separate pieces of legislation that this bill will enact, the message we are sending to kids and families is, 'Look; it is quite all right to be part of a same-sex family. It is exactly the same as a heterosexual family; the two are the same, and that's completely okay.' I am not sure if I agree with that. I think that the message that we perhaps ought to be sending is that marriage is marriage, and marriage is the normal family and, by the way, there are also same-sex relationships, and they should be respected for what they are as well: a different type of relationship, which is a same-sex relationship. It is not a marriage; it is a warm and loving relationship between two people of the same-sex, but it is different to marriage.

I have no difficulty with many of the benefits that will be extended to same-sex couples through this act being enacted. I can see many of the benefits of the recognition of such relationships, but on the basis that they are different to marriages. In the committee stage I want to explore the rationale behind the bill and its individual clauses. I am thankful to the many people who sent emails and letters about this bill, some of whom are constituents, and some of whom who have contacted me from all around the state, many speaking for the bill and many speaking against it. I thank them, and I will not go through them all, although I may mention some of them during committee stage.

I am intrigued with the tactics the government is using in putting this bill forward, in that the champion of this bill is now the Attorney-General. I am very intrigued that the champion of bill and the champion of the redefinition of same-sex relationships as marriages is now the Attorney-General. My understanding—I do not mean this in any personal sense—is that the Attorney-General has changed his views and is now of the view that same-sex couples are marriages, and I am also surprised, as I argued before, that the Attorney-General—

The Hon. M.J. Atkinson: What is he attributing to me?

Mr HAMILTON-SMITH: I am attributing to the Attorney-General that he is of the view that same-sex couples are marriages.

The Hon. M.J. Atkinson: No.

Mr HAMILTON-SMITH: Well, are equal to—

The Hon. M.J. Atkinson: No, no and no.

Mr HAMILTON-SMITH: That same-sex couples are entitled to the same legal privileges as a marriage.

The Hon. M.J. Atkinson: No.

Mr HAMILTON-SMITH: Well, we will explore it in committee stage and I will have an opportunity to quiz the Attorney-General. I will explain my understanding of what he has put to us, and he can defend himself from my questions. I suspect that the majority of my constituents would certainly hold to the view that children have a right to a mother and father and that, where possible, children should be brought up in a heterosexual family. However, I think that most of my constituents would recognise that there will always be circumstances where same-sex couples find themselves as parents—either through children from a former marriage, through adoption or through a range of circumstances. I think that the majority of my constituents would not seek to intervene in that arrangement, and know that loving families can exist in many forms.

We are talking about changing many acts to essentially redefine same-sex relationships as marriages, and I think that is a separate step altogether for the community to make. It is very much a separate step. I look forward to the committee stage. I find these decisions some of the hardest that a member of parliament has to make. I would have to say that euthanasia, this bill, and the same-sex superannuation bill put forward by the member for Florey are probably three of the most challenging bills that I have seen in this place, because they touch the very heart of what it is you believe as a member, personally, in terms of your own conscience and, on the other hand, your judgment as to what the majority of the people in your community believe. It touches the raw issue of whether you are put here to argue on behalf of the majority of the people who put you here or here to argue in accordance with your own conscience.

The Hon. M.J. Atkinson: It is a bit of both.

Mr HAMILTON-SMITH: I think, as the Attorney-General says, it is a bit of both, and that is why these bills are difficult bills. Of course, the difference is that, for my colleagues on this side of the house, we will treat this matter as a conscience issue, and we will consult with our constituents and make up our own minds. On the other side of the house, a number of members will do what they are told by their caucus. I find an element of disappointment in that situation, and I think it says something to people when they choose which party they should vote for in state and federal elections. I do not intend to say much more about the bill at this point.

I think I have touched on the most of the issues I want to touch on. Let me simply conclude by saying that I have great empathy for same-sex couples and for people in same-sex relationships. I recognise those relationships as being part of the fabric of life and I think there are compelling arguments for some of the benefits that have hitherto been extended to married couples to be extended to same-sex couples, but not on the basis that they are marriages. If the Attorney-General can convince me in the committee stage that the term he has used—the invention of the term ' domestic partner'—can extend these benefits while not equating same-sex couples to marriages, then I may be persuaded. It may be that we need to look at an amendment to this bill. It may be that we need to look at other loving and caring relationships.

I am reminded of two sisters in my own constituency who came to see me. They were being discriminated against in regard to council rates because they were having to both pay far more individually than the married couple across the street, because they were not married. They lived together for over 20 years, they loved each other, they were financially and emotionally co-dependent, but they were sisters. They demonstrated all the things that this bill defines as a domestic partner except for a sexual relationship, but their situation was just as compelling. I am not satisfied that this bill picks up those others in our community who also have an argument for support in this bill. So, I reserve my right in regard to a vote on this bill to the third reading. I will support it into committee and I seek more information and guidance from the Attorney, who is the champion of this bill, and the principles behind it as to its effect, the device within it, and the unintended outcomes that might flow from it.

The Hon. R.B. SUCH (Fisher): I commend the government and the Attorney-General for bringing this before the house because I think that it is a gutsy thing to do, and it is the sort of thing that you would expect of a government and a party that is committed to social justice and fairness, and all

of those principles. Irrespective of what happens to this bill—I suspect that it will get through, because I believe that it has merit—I commend the government for focusing on one aspect of our society that needs to be addressed in terms of getting rid of unfairness. Our society is still discriminating against people who are homosexual or lesbian, because of the intolerance in our society to people who may be different from the mainstream, and we see not only in Australia but in the United States and elsewhere the persecution of people who may have a different sexual orientation to the majority, and we hear it portrayed in terms almost of an illness, a disease, and something that needs to be treated.

My strong view is that people are born with an orientation, a disposition towards being a lesbian or being homosexual. There is no doubt that environment plays some role, but in reality all societies that I am aware of have had a small percentage who are lesbian or homosexual, and labelling these people and treating them as deviant, in need of treatment, I think is outrageous and a denial of basic human rights. It is the sort of attitude that led to people being burnt at the stake, and I suspect that many of those people who were burnt at the stake were people who had mental illness. We have still got a long way to go in terms of getting rid of, in our society, unjustified discrimination against minority groups which includes homosexuals and lesbians. I suspect that it is somewhere in the order of 8 to 10 per cent of the adult population who come into that category, who do not enjoy the full rights of citizenship because of an attitude in our community, an unjustifiable discrimination against them simply because of their sexual orientation or sexual preference.

This bill, on my reading, does not seek to define same-sex relationships in the same way that the commonwealth law defines marriage as being between a man and a woman, and I have had people writing to me suggesting that it does. I do not see in this bill an attempt to blur what is accepted by many in our society, the majority indeed, who use the term marriage in relation to a heterosexual relationship, so I think the people who are making that claim are quite wrong in relation to this bill.

As the member for Waite pointed out, one of the key aspects of this bill comes in the context of clause 74 and in terms of determining whether a person is to be recognised under the law as a de facto partner of another—'. . . consideration must be given to the following,' and then they are listed and members can read them. It does not say that there has to be a sexual relationship. That is one factor that can be considered. It says under Section 11A, 6(c):

> One of the considerations is whether or not a sexual relationship exists or has existed.

And it talks about all of the other aspects, the nature and extent of common residence, and so on. So, it does not, in itself, require evidence of an ongoing sexual relationship. Now, without getting into areas which are probably not desirable in terms of this debate, one can raise issues in terms of what I defined before as marriage, a heterosexual relationship, and one can make comment about the level, the intensity and type of sexual activity that occurs there, and I think that members can understand and appreciate that, simply because there is a heterosexual bond by way of what we define as marriage, that does not necessarily mean that there is an ongoing or existing sexual relationship, and I think that members are well aware of some of the aspects that I am alluding to there.

As legislators and as citizens we are engaged in discrimination all the time, and the Attorney has made the point that there is justified and unjustified discrimination—that you are justified, certainly in my view, in discriminating against people who break the law. We discriminate all the time in making choices and in our behaviour. There is also the category of unjustified discrimination and we see that in areas of religion, race, age, sex and so on, and our society has got quite a way to go in getting rid of unjustified discrimination.

As I said at the start, I believe the bill is something that should be at the core of a government and a political party that is committed to social justice. In that respect, I would say that a social democratic labour party overlaps with the key principles of small 'l' liberalism. I would see the two overlapping with regard to valuing the individual but striving to get social justice and to remove unfairness and unjustified discrimination.

Therefore, in bringing this bill forward, the Labor government is demonstrating its commitment to some of the core principles which have underpinned the Australian Labor Party for a long time, and which also underpin small 'l' liberalism which sadly has fallen off the back of the utility for many people who are currently in the Liberal Party of Australia. What we have seen in the Liberal Party is less and less small 'l' liberalism and more and more either conservatism or reactionary-type approaches to a whole range of issues.

I think that is a tragedy not only for liberalism but also, more importantly, for the community and ultimately for the Liberal Party itself. It should look possibly at changing its name to something else, because it does not in many aspects, and has not in recent times, upheld the principles of what I call small 'l' liberalism. It might lean that way in some of the economic areas but in social policy it has increasingly become conservative, if not downright reactionary.

Mr SCALZI: I rise on a point of order. I find the assertion that I have lost my liberalism and that I am not small 'l' offensive. Look at me, I am small 'l'.

The ACTING SPEAKER (Ms Thompson): There is no point of order.

The Hon. R.B. SUCH: Many people still within the Liberal Party uphold and seek to implement small 'l' liberal values. There has been that tradition over a long time. What I am saying is that, in many respects, the party has moved further to the right.

Ms CHAPMAN: On a point of order: whilst I always like to listen to the masterful and eloquent contributions by the member for Fisher, the position that the Liberal Party of Australia (SA division) might take on certain matters is totally irrelevant to this debate. What we need to hear about from the member for Fisher is a contribution in relation to the bill.

The ACTING SPEAKER: There is no point of order.

The Hon. R.B. SUCH: This is germane to the approach that is taken by people who belong to the Liberal Party, because the point I am making is that those who uphold small 'l' liberal values will see the merit in the argument I am putting in terms of why this sort of legislation is required. I have made my general points. This measure is a step towards helping to make our society more fair and more just, and to give to people who are in a same-sex relationship what should be seen as equal rights in terms of access to property and other entitlements.

The point raised by the member for Waite was an interesting and important one. I think the situation where you

have people living together who are of the same sex but may not be in a sexual relationship is more common than many people would acknowledge. I know two women, one who is 40 and the other would be a little bit older, who have pooled their resources to buy a large house and live together. They are not in a sexual relationship.

One of the points I would like to explore, along with the member for Waite, is the Attorney-General's response to that situation as to whether or not they are encompassed within this legislation. I would hope they would be, because they would meet most of the criteria under clause 74(11)(a) but explicitly they are not in a sexual relationship. There is no reason to doubt their assertion in that regard. I would like to explore that issue further in committee. I acknowledge that, in terms of the criteria to be applied, it is not an essential requirement that there be a sexual relationship. It would be good to clarify the point in relation to what we may see more of in the future; that is, same-sex couples together—or some people would call it same gender—who are not in a sexual relationship but who live under the one roof for economic and other reasons.

If you think about it, the suggestion that simply because people are of the same sex and living under the one roof they must be in a sexual relationship is offensive to people who acknowledge the good work of nuns, priests and brothers. The assumption that they would be in some sexual relationship is highly offensive and inaccurate in probably all but a very small percentage of cases.

I draw my remarks to a close. As I said at the start, the government is to be commended for bringing it to the house. I know the Attorney maybe in his heart does not agree with all of this, but he is to be commended for being part of a process where as a community we can move forward and treat everyone with dignity and as human beings worthy of equal consideration in respect of day-to-day activities and their entitlements. I believe this bill has merit. I will be supporting it and looking forward to possible changes during the committee stage.

Mr BRINDAL: On a point of order, Madam Acting Speaker, I just wanted your clarification on the ruling of relevance. You did not rule that the subject matter was irrelevant, did you? I am just looking for your clarification.

The ACTING SPEAKER: I did not rule that the subject matter was irrelevant.

Mr BRINDAL: Thank you.

Ms CHAPMAN secured the adjournment of the debate.

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

A quorum having been formed:

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

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

No. 1—Clause 4, page 4, lines 12 to 15—
Delete paragraphs (b) and (c) and substitute:
(b) a place (other than a vehicle) where only a single self-employed person is working; or
(c) a vehicle that is used for work purposes by only one person; or

No. 2—Clause 12, page 6, line 9—
After "licence" insert:
and no other such vending machine is situated in the gaming area or any other part of the premises in respect of which the licence is in force under the *Liquor Licensing Act 1997*

No. 3—Clause 12, page 6, line 14—
After "holder of the licence" insert:
and no other such vending machine is situated in the premises in respect of which the licence is in force

No. 4—Clause 12, page 6, line 17—
After "1997" insert:
and no other such vending machine is situated in the casino

No. 5—Page 8, after line 12—
Insert:
15A—Amendment of section 41—Prohibition of certain sponsorships
Section 41(3)—delete subsection (3)

No. 6—Page 12, before line 14—
Insert:
16A—Insertion of Part 6
After section 69 insert:
Part 6—Trial of nicotine replacement therapy to aid in quitting smoking
70—Trial of nicotine replacement therapy to aid in quitting smoking
(1) The Minister must establish a scheme to trial the effectiveness of using nicotine replacement therapy to overcome the physical addiction to tobacco products.
(2) The Minister must establish the scheme in accordance with the following principles:
(a) at least 1 000 users of tobacco products who wish to quit using tobacco products must participate in the trial;
(b) the trial must be conducted in accordance with established scientific methods using control groups;
(c) participants in the trial must be selected according to a means test;
(d) participants in the trial must receive a subsidy determined by the Minister of up to 75% of any cost incurred by the participant for nicotine replacement therapy but not exceeding $300 per participant;
(e) an evaluation of the trial must be carried out to determine—
(i) whether the nicotine replacement therapy contributed significantly to the success rate of participants quitting the use of tobacco products; and
(ii) whether making nicotine replacement therapy generally affordable would be a cost-effective method of dealing with a serious public health issue.
(3) The Minister must take into account any recommendations of Quit SA when establishing the scheme.
Note—
Quit SA is an initiative of The Cancer Council of Australia and the National Heart Foundation (SA Division). Most of its funding is provided by the State Government.

No. 7—Clause 19, page 12, after line 31—
Insert:
(2a) Section 87(2)(f)—delete "in, or in conjunction with, advertisements of tobacco products" and substitute:
at premises at which tobacco products are offered for sale by retail

Consideration in committee.

The Hon. L. STEVENS: I move:

That the Legislative Council's amendments be agreed to.

The Hon. DEAN BROWN: If the minister does not intend to make any comment, I will ask some questions. What is the proposed date of proclamation of this act? Is it still 30 October? There was some talk that it might be changed to 30 November. I would like that to be clarified. The upper house in its wisdom has put through a proposal to have a trial of nicotine replacement therapy to aid people to quit smoking. I support that because I think it is important that we have a more effective campaign to help those who would like to give up smoking. This is a significant improvement in the legislation, and I congratulate the upper house for this move.

Will the minister give an absolute assurance as to how this proposal will be funded? I understand that the government has made some threats that the money will be taken out of the Quit SA Program. If that is so, that would be a disaster because it would mean there would be less money for other existing programs. Clearly, it is the upper house's intention that this should be funded with additional money. It will involve the expenditure of $300 000. When I was the minister we put in place $3.9 million for anti-tobacco programs. The clear evidence is that this government has not been fully spending that $3.9 million. I want an assurance that this clinical trial using nicotine replacement therapy will be funded with the $300 000 that does not in any way impact on the funding of Quit SA or any other existing tobacco campaign or strategy that we have running in South Australia.

The CHAIRMAN: I think that was a statement and a question. Minister.

The Hon. DEAN BROWN: I want an assurance.

The Hon. L. STEVENS: Do you? Okay. Well, the honourable member will just have to listen to what I have to say. In relation to—

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: If the deputy leader would like to listen, I will address the two matters he raised. There was no date in the legislation. I am surprised that the shadow minister has not read the bill. There was no date for the beginning of this legislation.

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: No; there was no date in the legislation. The first date mentioned in the legislation is 31 October 2005, when the next reduction of smoking in gaming areas occurs. Of course, the most important date is 31 October 2007, when there will be no smoking at all in any enclosed workplace or public space, including bars, clubs, pubs and gaming areas in the hospitality sector; and, of course, in relation to the charity sector which the shadow minister was keen to support when this bill was in the lower house.

Of course, in its press releases, the government had intended to begin this measure on 31 October, not 30 October, which I think the deputy leader said. Our intention was to start this measure on 31 October. Obviously, we cannot do that; that is in three days. We do know that the AHA and clubs are ready to go on this. We have been in constant contact with them in relation to the roll-out of this measure. However, over the next couple of days we will need to talk about what is now the realistic timetable to have this up and running.

There will be a community awareness campaign, and there will need to be the official notification. I will be wanting to talk with the AHA and clubs about what is realistic for them. Please, I want to assure the house that we will be doing this as soon possible and as soon as it is practicable to proceed. That was the first point—

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: No, I do not have a date at this stage. As I said, we will be talking tomorrow. Of course, my department has options already drafted for me in terms of what it sees as the steps that we now need to put in place. I will be wanting, again, to consult with the people concerned, as we have always done as part of this cooperative reform. I will be doing that in the next day or so. We will work that out and that will move into action.

In relation to the other matter, yes, the other place has passed an amendment relating to the establishment of a trial of nicotine replacement therapy to aid in quitting smoking. The government accepts this amendment. It is not our preference, I must say, because we did have some concerns about politicians and parliament designing a clinical trial. Certainly, the government in the upper house did put the position that we believe that the design of clinical trials should be the province of those who are expert in such matters. Nevertheless, the amendment was passed in the upper house. The government wishes to progress this whole bill, so we accept this amendment.

The deputy leader also asked me about the funding of this measure. I just want to be clear: yes, $3.9 million is set aside, and that money came about during the life of the previous government. I remember it very well because it was in relation to the smoke free dining legislation introduced by the Hon. Michael Armitage. I remember that that amount of money was a trade-off that was forced upon the previous government.

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: Perhaps I will change that to say that an agreement was made in terms of the support of the then opposition that this amount of money was spent. I remember that very clearly because I made that agreement with the Hon. Michael Armitage and, I think, the Hon. Graham Ingerson. Certainly, he was part of a meeting that we had about that funding level. I remember that very well. I know that the Hon. Paul Holloway said this in the other place, but I want to say that the budget of Quit SA was static under the former minister (the deputy leader).

The budget has been increased by this government by 10 per cent. My advice is that it has increased by 10 per cent from $1.14 million per annum under the former minister to $1.256 million under the current government. I say to all members that the government has put its money where its mouth is. It has put its credibility on the line in terms of anti-smoking measures because, as we have said on a number of occasions during the debate on this legislation, the government's State Strategic Plan has specific targets for the reduction of smoking within the next 10 years.

Both the government and the cabinet have committed to that. We will be working towards that. This legislation is an important part of that, but it will be just the start of a whole range of things, including our tobacco plan that we will roll out in the coming months, heading towards the target to which we have committed ourselves: that in 10 years there will be a reduction in smoking by 10 per cent, particularly amongst young people.

The Hon. Dean Brown: You have not answered the question.

The Hon. L. STEVENS: If the honourable member just waits and does not interrupt me, I will continue. In relation to funding of the program, the government will follow exactly what we are agreeing to here. A scheme will be established. We will be taking advice. The amendment provides:

> The minister must take into account any recommendations of Quit SA when establishing the scheme.

We will be doing exactly that. Off the top of my head, I cannot say who exactly will be doing this, but I expect that Quit SA would be well placed to do it. The cost of the scheme will come out of the allocation to Quit SA. There will be no reduction in Quit SA's budget. Why would we reduce its budget? We have increased it. It was the former government, of course, that did not increase it. However, we have increased it. There is no intention of our decreasing Quit SA's

budget. Any other appropriations come as part of the budget process. But this will be done. We will do exactly what has been set down by the upper house. We will take the advice from Quit SA. We will come up with a scheme to follow exactly what has been passed in the other place—and which we accept.

The Hon. DEAN BROWN: I wish to comment on a number of things that the minister has said. The reason why I raised the issue of proclamation the minister may or may not remember, but, if members compare her second reading speech with the bill, they will see that there was a conflict between the two in terms of what the proclamation would be. I raised that during a briefing with the department, and that is why I raise it again here. There was the conflict between the bill and the second reading speech, and I was concerned about that conflict.

I appreciate the fact that no date has yet been set. I understand that, but one hopes that it will be very soon, particularly as the minister has been out there on two or three occasions criticising members of the other place for the delay in passing this legislation. I find it absolutely outrageous that the minister is out there making such a false accusation. Who delayed the report that was prepared for the government? It was this Labor Rann government which delayed that report until April last year. Who took well over 12 months to bring the legislation into parliament after that report was prepared? It was this minister and this Labor government. Who allowed this legislation to have such a low priority in the last session of parliament that it could not even get to the other house to be debated? Therefore, it was automatically delayed for about 10 to 12 weeks, while there was a proroguing of the parliament and parliament had to be recalled. Even when the parliament was again established, who delayed the announcement?

Who went off and did a deal with tobacco companies and the retailers about dropping the point of sale legislation? I want to raise that in this house because the minister gave an undertaking to this house that she would come back with legislation—

The Hon. L. STEVENS: I rise on a point of order, sir. My understanding is that we are debating the amendments. This is not the third reading.

The CHAIRMAN: That is correct. We are debating the amendments and whether or not the committee will accept them.

The Hon. DEAN BROWN: Sir, I appreciate your point, but I point out that the minister gave a ministerial undertaking to this house that she would come up with amendments on point of sale controls to be introduced into the upper house.

The Hon. L. STEVENS: I rise on a point of order, sir.

The Hon. DEAN BROWN: If the minister wishes to take a point of order, we will look at this as a matter of privilege of this committee—

The CHAIRMAN: Order!

The Hon. DEAN BROWN: —because she gave an undertaking to this house—

The CHAIRMAN: Order! The deputy leader will resume his seat.

The Hon. DEAN BROWN: —that such amendments would be passed in the upper house.

The CHAIRMAN: Order! The deputy leader will not speak over the chair.

The Hon. L. STEVENS: On a point of order, sir, we have been here late—

The Hon. Dean Brown: You gave the undertaking—

The Hon. P.F. Conlon: Take your matter of privilege, and then piss off.

The Hon. L. STEVENS: Sir, we have been here late every night—

The Hon. DEAN BROWN: I rise on a point of order, sir.

The Hon. L. STEVENS: Excuse me, sir, I am finishing my point of order.

The CHAIRMAN: Order!

The Hon. DEAN BROWN: Mr Chairman, I ask that the leader of the house withdraw the statement that he just made across the chamber.

The CHAIRMAN: Order! We have had a long, tiring week. Members will be released shortly. I ask members to calm down. The point of order from the deputy leader—

The Hon. DEAN BROWN: I take exception to what the leader of the house said across the chamber, namely, 'Piss off and leave the place.' I believe that is unparliamentary, and I ask that he withdraw that and apologise.

The CHAIRMAN: It might be inappropriate, but it is not unparliamentary.

The Hon. Dean Brown: Well, it is.

The CHAIRMAN: The minister was making a point of order.

The Hon. L. STEVENS: I am simply saying that we have been here late for a number of nights.

The CHAIRMAN: That is not a point of order.

The Hon. L. STEVENS: My point of order is that the deputy leader continued on the same track about which I had made a previous point of order.

The CHAIRMAN: The committee is considering these amendments. It is not revisiting second reading speeches. The committee must decide whether to accept or reject these amendments. The deputy leader.

The Hon. DEAN BROWN: I will continue my remarks but, in so doing, can I say how unparliamentary it is of the leader of the house to come in and utter an expression such as that, and effectively make almost a threat across the chamber when debating this legislation.

The Hon. P.F. CONLON: I rise on a point of order. Sir. Not only is that completely untrue, but also—

The CHAIRMAN: Order! The minister will resume his seat.

The Hon. P.F. CONLON: But I do have a point of order, sir.

The CHAIRMAN: Order! The chair has not called anyone yet. People pop up like mushrooms in here. There has to be some system and order. Otherwise, it is chaotic. What is the minister's point of order?

The Hon. P.F. CONLON: Sir, I was not making any threats. In fact, the member for Finniss was threatening a matter of privilege. I apologise for the language used, but all I said to him was that he should actually make his matter of privilege, or he should stop blustering and get on with the debate.

The CHAIRMAN: Order! The minister has made his point. It is inappropriate. I heard both of those remarks, and they were both out of order and inappropriate.

The Hon. DEAN BROWN: I highlight the fact that an undertaking was given to this house by the minister when this house was last debating, and I notice that no such amendment—

The CHAIRMAN: Order! The member is going beyond the parameters of what is before us. The member for Finniss must speak to these amendments and not canvass other matters. Which amendment are you speaking to?

The Hon. DEAN BROWN: I understand your point, because I had expected this to be one of the amendments to come down from the other place, but it is not there. And it is not there because the government did a deal with the tobacco industry.

Members interjecting:

The CHAIRMAN: Order!

The Hon. L. STEVENS: On a point of order, sir—

The Hon. DEAN BROWN: I move on, and I highlight the fact that the minister has tried to blame the Legislative Council for the delay. But the Legislative Council progressed this matter quickly once a decision on certain matters was made.

The minister raised the issue of funding, and that is the question I asked. First, the minister is wrong about the $3.9 million. The $3.9 million was a specific decision of the cabinet—and I happened to be sitting in the cabinet at the time—with Living Health money, and it was agreed that an allocation would be given to smoking based on the per capita allocation given in California. I argued very strongly on that, and South Australia took a lead in that regard—I think being the second government in the world to give a commitment to fund anti-tobacco campaigns to the same per capita extent as California, which was then seen as a leader.

I note the comment that the government has increased the funding for Quit SA to $1.256 million, which is a 10 per cent increase. However, I must take up the minister's point that the $300 000 to fund this clinical trial will come out of the Quit SA budget. If that was to occur it would automatically mean $300 000 out of the $1.256 million, and that automatically means a 25 per cent reduction in Quit SA's other programs. That is the fear I have and the fear that I know members in another place have: that, in fact, this was some sort of action being taken to try to punish Quit SA. I object, because if this amendment is to go through I believe it should be funded separately and it should not impact on the existing budget of Quit SA.

The Hon. P.F. Conlon: In which case they would not have been able to do it—you would think you have been here long enough to know that.

The Hon. DEAN BROWN: The minister would appreciate the fact that it is not particularly unusual for ministers to give an undertaking—and I think this is exactly what the upper house was seeking—that additional funds would be allocated to make sure that this clinical trial was fully funded. Therefore, I was asking the minister whether $300 000 extra would be allocated to Quit SA so that this could be fully funded. I do not mind it being funded out of Quit SA funds, but they need the $300 000 extra and if—as the minister has now indicated to the committee—this is to come out of their existing budget that is a very unfortunate step. Once again, it shows the very low priority this government gives to quitting smoking and having an effective anti-tobacco campaign in this state.

The minister herself talked about how the most important date was the end of October 2007. I am glad the minister has highlighted that because it is the most important date. It means that South Australia has moved from being a national leader, the first state to ban smoking in dining areas when food is being served, to—on present indications—now being the last state in Australia to ban smoking in enclosed areas such as clubs and pubs.

The Hon. L. Stevens interjecting:

The Hon. DEAN BROWN: No. I point out that it was the minister who raised the point of the end of October 2007, and therefore I want to comment on that and the fact that we have gone from being a national leader now to being in the last state in Australia on that.

In terms of the other amendments that are before us, I pick up the point about vending machines. I am delighted that the upper house has picked up the point that I raised in the lower house, that here is a government that has gone soft on retail sales. At least the upper house has put some fabric in so that you cannot have more than one vending machine in any one location. If the rest of the legislation—

Members interjecting:

The Hon. DEAN BROWN: If the minister will listen—only allows one point of sale as it does for retail sales—and it could be even a very large supermarket where that occurs—then it is only appropriate that there be one vending machine in any one venue. I am delighted that the upper house has put that in, and I will be supporting that very strongly, indeed.

The legislation is an improvement with the amendments that have come back from the upper house. The legislation still falls significantly short of where we ought to be in terms of taking leadership and giving a strong direction to people so that they quit smoking, because the cost of that to the health of South Australians is enormous, to say the least. There are going to be people who will continue to suffer from the adverse effects of cancers, heart disease and respiratory problems as a result of the laxness of the legislation as it now stands here in this parliament.

The CHAIRMAN: I point out to members the state of the clock.

The Hon. L. STEVENS: I simply want to say that a lot of what the shadow minister says is quite jaundiced in terms of his point of view on a number of matters. The government is pleased to have had this debate. We accept the amendments that have come from the other house. We have a strong commitment to carrying this forward, and there will be many other strategies. In relation to the display clauses, I made the position of the government quite clear. That work will now continue and the government will be bringing something back next year sometime. So I commend all of these amendments to the house.

The Hon. DEAN BROWN: I make one further point. I highlight the fact that this week we have had the Anti-Tobacco Alliance at a national level come into this state and campaign and argue very strongly—

The Hon. L. Stevens interjecting:

The CHAIRMAN: Order! The deputy leader must address the amendments.

The Hon. DEAN BROWN: I am, Mr Chairman. I am addressing the amendments in terms of the way they have come back from the upper house—and that has always been allowed in this house—and how these amendments have failed to deal with the fact that the legislation, as it currently stands with these amendments, fails to meet what has been put down by the National Anti-Tobacco Alliance, the fact that we are acknowledged by them as continuing to cause problems for people with asthma in this state, and threatening the health of people who work in pubs and clubs, particularly in the period up until the end of 2007, because of the way this legislation currently stands. I will support the amendments because they are an improvement on the legislation that passed this house. They are still far short of what was needed, and particularly of what even the minister promised to this house we could expect to see when the amendments came back.

Motion carried.

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council without any amendment.

DRIVING INSTRUCTOR LICENCES

The Hon. P.L. WHITE (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: Today in question time the member for Mawson asked me a question in relation to driving instructor licence fees. Specifically, he made the claim that the driving instructors licence fee had been increased from $250 for five years to $1 390 for five years. When he asked that question, I undertook to check the figures, and I can now advise the house that those figures are wrong. The fee last year for a five-year driving instructor licence was $310, not $250, as the member claimed. In fact, the driving instructor licence fee has not been $250 since the mid-1990s. Coming into effect 1 October this year, the motor driving instructor's licence fee is $68 per annum, or for a five-year licence $341, which is quite significantly different from the information presented by the member for Mawson.

ADJOURNMENT

At 5.58 p.m. the house adjourned until Monday 8 November at 2 p.m.