HOUSE OF ASSEMBLY

Tuesday 7 December 2004

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

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor's Deputy, by message, recommended to the house the appropriation of such amounts of money as might be required for the purposes mentioned in the bill.

PROFESSIONAL STANDARDS BILL

His Excellency the Governor's Deputy, by message, assented to the bill.

INFANT HEARING SCREENING

A petition signed by 310 residents of South Australia, requesting the house to urge the government to implement a screening program to detect permanent hearing impairment in infants by the age of two months and adopt the recommendations of the evaluation report into the newborn screening and assessment pilot program conducted in 2003-04, was presented by the Hon. D.C. Kotz.

Petition received.

DEAFBLINDNESS

A petition signed by 54 residents of South Australia, requesting the house to adopt a written declaration, similar to that passed in the European parliament on 1 April 2004, recognising deafblindness as being a distinct disability requiring specific support provided by people with specialist knowledge, was presented by the Hon. D.C. Kotz.

Petition received.

HOME SERVICE DIRECT

The SPEAKER: In compliance with the undertaking I gave to the house last week, I table the Home Service Direct Pty Ltd and SA Water opinion.

The Hon. J.D. HILL: On a point of order, Mr Speaker, yesterday you pointed out that a number of microphones were not on. I do not believe yours was on just now, and I am not sure that too many of us heard what you had to say.

The SPEAKER: I apologise to the house. I saw that the red light was on. What I did was to table the crown law opinion on the Home Service Direct and SA Water contract. By way of simple explanation, there is nothing in this document which would compromise either the executive or the crown or which is not in the public interest. I do not know that there is a lot of interest to the public in this document, but I note that it is in the public interest for members of the public to be able to review it.

WESTERN MINING CORPORATION

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: My ministerial statement concerns the Western Mining Corporation's Olympic Dam operations.

Members interjecting:

The Hon. M.D. RANN: They don't like it.

The SPEAKER: Order! The honourable the Premier has the call.

The Hon. M.D. RANN: Thank you, sir. Over the last few weeks there has been speculation about the future ownership of Western Mining. One element missing from that speculation is the fact that the state, this parliament and the government have quite specific powers, rights and obligations under the terms of its indenture agreement. As I have told the house on several occasions, the government is working closely in partnership with WMC towards an expansion of Olympic Dam that could see its output double in coming years.

Last month I was able to deliver the good news to the house that WMC had announced to the Australian Stock Exchange a significant upgrade of the resource value of Olympic Dam. This upgrade took Olympic Dam's gold and copper resources from being the seventh largest in the world to the fourth largest. As a result of increased drilling and exploration and an improved price outlook for uranium, the value of Olympic Dam's total mineral resource has increased by nearly 30 per cent.

The overriding concern of the government and the overwhelming interest of the State of South Australia is for the expansion of Olympic Dam to proceed so that the people of South Australia benefit from the extra exports, the extra jobs and the bigger royalties that would flow from that expansion. The expansion of Olympic Dam is central to achieving South Australia's strategic plan targets of trebling our exports to $25 billion by 2013, increasing minerals production to $3 billion, and increasing minerals production by a further $1 billion by 2020.

I will make a significant announcement in a moment, but the people of South Australia need to be assured that any potential bidder for WMC would match WMC's impressive expansion plans and provide equivalent benefit to the state. WMC has already invested around $4 billion at Olympic Dam, making it the largest single investment by a company in the state since the Cooper Basin development in the 1960s. The expansion planned by WMC for Olympic Dam will likely see that total expenditure reach more than $8 billion. The planned expansion means that the number of jobs could increase from 1 750 to 3 200, with 2 000 jobs created during the construction phase. The population of Roxby Downs is likely to expand from 4 000 to 7 000 people. The state also benefits from the $30 million annual state royalty that WMC pays on the value of mine output as it leaves Olympic Dam. This royalty would grow as output from the mine expands.

I can announce today that, as part of its expansion plans, Western Mining is considering investment in a multimillion dollar desalination plant (and I understand it is proposed for the Upper Spencer Gulf) which will help reduce the call on water from the River Murray or, indeed, from the basin. It would release 12 gigalitres for environmental flow for the River Murray and dramatically improve the quality of water for the Upper Spencer Gulf.

WMC is well aware of its responsibilities to the environment. For instance, WMC takes part with the National Parks of South Australia, Adelaide University and the local community in an arid recovery program designed to protect arid zone ecosystems around Olympic Dam. The work includes a rabbit, cat and fox-proof fence enclosing a

60 square kilometre reserve where small reintroduced mammals (such as bilbies, bettongs and bandicoots, which are close to all our hearts) are thriving.

In addition, over the past four years WMC has invested more than $2 million in the bore drain replacement program in the Great Artesian Basin to support pastoralists in the introduction of more sustainable water use. The pastoralists have used WMC funds to replace open bore drains with systems of closed pipes and troughs. WMC is also active in support of Aboriginal groups in South Australia through heritage management and community development programs. Some of this funding is being used to provide improved educational opportunities for young Aborigines.

Western Mining is a vital player in South Australia's economy and community, particularly in our remote regions. It is a company that has shown a strong commitment to South Australia, and if another company seeks to gain control of Western Mining our concern, as a state, must always be to ensure that the planned expansion goes ahead. Western Mining Corporation's aggressive expansion plans are very much in the interests of our state.

I am sure that Western Mining has the support of all members in pursuing its expansion plans and in boosting exports, jobs and royalties for the benefit of all South Australians. To put that into context, we are talking about a multi-million dollar desalination plant in the Upper Spencer Gulf that would not only provide the water for Olympic Dam but would also, of course, free up water currently used from the River Murray for the people of the Spencer Gulf. This is currently being considered. This has not been revealed before. I think it would be tremendous news for this state.

Members interjecting:

The SPEAKER: Order!

HOSPITALS, MOUNT GAMBIER

The Hon. L. STEVENS (Minister for Health): I seek leave to make a ministerial statement.

Leave granted.

The Hon. L. STEVENS: Members will recall that following the Stokes Wolff report into quality and safety issues at the Mount Gambier Hospital in March 2004 I requested Professor Stokes to make a further inspection of the hospital and to report on the progress of implementing the report's recommendations. Professor Stokes visited Mount Gambier on 29 October 2004, and I now table his final report dated 6 December 2004.

The report is very positive about steps taken to improve patient services at the Mount Gambier Hospital and says that there has been considerable improvement in functioning and patient safety in the hospital since his original report in March this year. Professor Stokes says that he considers the hospital is performing at an acceptable level. The report specifically refers to very considerable improvement in the area of obstetrics and gynaecology, with the staff at a satisfactory level. In anaesthesia, Stokes says that the supplementation of the work force from the Royal Adelaide Hospital under the guidance of Professor Ludbrook has significantly strengthened this service, and recommends that the anaesthetic services be placed under the control of the Department of Anaesthesia at the Royal Adelaide Hospital.

The report also says that surgery appears to be functioning on an improved scale under Professor Guy Maddern, and makes recommendations about how communication with local GPs might be further improved. The report says that there has been a more stable medical work force in the emergency department and recommends the continuation of the current supervision by an experienced practitioner. Professor Stokes says that with the appointment of a clinical risk manager there will be a very significant improvement in the identification of safety issues, and that this should be applauded. Stokes notes that previous issues regarding obstetrics and emergency resuscitation have significantly improved and that the situation is now acceptable. Stokes reports that there is a much more friendly staff environment, that the nursing staff remain the backbone of the hospital and are generally pleased with the improvement in hospital functioning.

Professor Stokes says that the appointment of a medical director has led to a very genuine attempt to engage staff more in decision making and to feel more valued. The report also highlights areas for further work, including psychiatry services and continuation of attempts to improve the availability of junior medical staff. Professor Stokes also commented on a range of administrative and governance issues, and I have referred these to the board of the Mount Gambier Hospital and the Regional Health Board for consideration and further advice. I am pleased to inform the house that Professor Stokes concludes that the Mount Gambier Hospital has, in his opinion, reached a safe state comparable to other Australian hospitals of similar size and location.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. K.O. Foley)—

Regulations under the following Act—
Public Finance and Audit—Dissolution of XTAB

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

Regulations under the following Act—
Summary Offences—Vehicle-Immobilisation Devices

By the Minister for Health (Hon. L. Stevens)—

Institute of Medical and Veterinary Science 2003-04
Regulations under the following Act—
Tobacco Products Regulation—Smoking Bans

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

Regulations under the following Act—
Water Resources—South East Prescribed Wells Area

By the Minister for Education and Children's Services (Hon. J.D. Lomax-Smith)—

Regulations under the following Acts—
Petroleum—Transmission Pipelines

By the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen)—

Dried Fruits Board of South Australia—Report 2003-04

By the Minister for State/Local Government Relations (Hon. R.J. McEwen)—

State Electoral Office of South Australia—Local Government Activities—Report 2003-04
Joint Committee on the Impact of Dairy Deregulation on the Industry in South Australia—Final Report—Government Response
Rules—
Local Government Superannuation Scheme—Local Government Act—Portability
Local Council By-Laws—
City of Burnside By-Laws—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land

No. 4—Roads
No. 5—Dogs
No. 6—Waste Management

By the Minister for Consumer Affairs (Hon. K.A. Maywald)—

Commissioner for Consumer Affairs—Report 2003-04
Regulations under the following Act—
Liquor Licensing—Dimjalla Skate Park.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

Ms BREUER (Giles): I bring up the 52nd report of the committee, entitled 'Waste Management'.

Report received and ordered to be published.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

Mr CAICA (Colton): I bring up the annual report 2003-04 of the committee.

Report received and ordered to be published.

QUESTION TIME

CHILDREN IN STATE CARE INQUIRY

The Hon. R.G. KERIN (Leader of the Opposition): What role did the Minister for Families and Communities play in the appointment of the chief investigation officer of the Mullighan inquiry, and does he agree that it is inappropriate that the most likely department to be investigated is in charge of appointments? The advertisement for staffers for the inquiry was under the Attorney-General's Department heading but said, 'The Minister for Families and Communities may make appointments to the above positions after consultation with the Commissioner.'

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Uppermost in the mind of the government at all times since this debate first started some time ago has been the attempt to build a bipartisan position around this most important inquiry, an inquiry that will commence properly tomorrow.

Members interjecting:

The SPEAKER: Order! The honourable minister has the call, not the member for Mawson or the member for Bright.

Mr Brokenshire interjecting:

The SPEAKER: The member for Mawson does not have the call.

The Hon. J.W. WEATHERILL: It is proper that I inform the house that, shortly before coming into the house today, I was informed by Mr Morris, an investigator—not a chief investigator: one of the assistants to the inquiry—that he has decided to resign his position. Yesterday evening, Mr Morris was the subject of a television story that discussed his relationship with a convicted paedophile, Peter Liddy. Mr Morris vigorously denies any allegations of dishonesty or unprofessionalism that were levied at him in the course of that story. However, consistent with what I understand to be the integrity of the man, he has decided that it would be untenable for his position to continue in assisting the inquiry. Uppermost in his considerations was public confidence in the inquiry.

Members interjecting:

The SPEAKER: Order! The member for West Torrens does not have the call.

The Hon. J.W. WEATHERILL: I have gone to some lengths to try to build some confidence in the government's decision-making in relation to this inquiry, and I believe that a tremendous amount in that regard has been achieved. Lest there be any suggestion of any inappropriate conduct on behalf of Mr Morris, let me say that, first, he volunteered his professional relationship as a lawyer with Mr Liddy to me. He volunteered that to me, and I do not believe now, nor did I believe at the time, that this would interfere in any way with his functions in relation to the inquiry. I am sure that if those opposite consult some members of their caucus they might just be aware that, when a lawyer holds a power of attorney for a client, especially one who is incarcerated, it is not an uncommon thing.

There are certain logistical difficulties with someone who is incarcerated carrying out their own defence. It is not uncommon at all and does not suggest an improper relationship. Indeed, it is in the ordinary course for people who carry out those inquiries. The important thing is this—

Members interjecting:

The SPEAKER: Order! The Minister for Infrastructure does not have the call.

The Hon. J.W. WEATHERILL: The important thing is that Mr Morris has put the success of the inquiry ahead of any personal considerations. The inquiry will be a success: already 200 submissions have gone to the inquiry. The Leader of the Opposition and yourself, sir, as Speaker, will be attending a public launch of the inquiry tomorrow and have been invited to speak. We have had a successful seminar where I invited all MPs from this house to attend to speak directly with the commissioner.

I believe there is a growing confidence in Commissioner Mulligan in his carrying out what is a very sensitive task. It is very sad that we have lost a very able South Australian in being able to assist the inquiry, but I am sure we will be able to find a first-class replacement without its interrupting the deliberations of this important inquiry.

ELECTRICITY PRICES: VICTORIA

Mr CAICA (Colton): My question is to the Minister for Energy. Can the minister advise the house on the veracity of recent claims that the price of electricity in Victoria has fallen by 5.6 per cent and provide a comparison with the impact on residential electricity prices in this state of the draft determination from ESCOSA?

The Hon. P.F. CONLON (Minister for Energy): I am more than happy to answer this question, because there is absolutely no doubt that the price of electricity, particularly since privatisation by the Liberals, has been a matter of great importance to South Australians. So, it is important that information that is purported to be put out there is accurate. It is absolutely clear that the member for Bright on many occasions in recent weeks has been out there saying that the price path in Victoria provided a 5.6 per cent decrease. Can we get a nod? Did he mean what he said? Is it true? He is not nodding. He is not sure any more.

The SPEAKER: Order! The minister knows the question was not about the member for Bright's utterances in any way, shape or form.

The Hon. P.F. CONLON: All right. Let me get to the point in terms of the confidence of people in prices set by the Regulator and what they actually mean.

The Hon. W.A. Matthew: You put the price up.

The Hon. P.F. CONLON: The member for Bright put out a press release saying, 'Victorian prices went down 5.6 per cent.' He went on radio and he said, 'Victorian prices went down 5.6 per cent.' Was that true?

Members interjecting:

The Hon. P.F. CONLON: Those opposite do not want to hear this. It is fair to say—

An honourable member interjecting:

The Hon. P.F. CONLON: I am telling you about the snake and what a snake he is.

Members interjecting:

The Hon. P.F. CONLON: I am sure you are interested in this, Mr Speaker. What occurred in Victoria was that Geoff Kennett had the good sense (unlike John Olsen) to sell to a number of retailers, not to a monopoly, so five were dealt with in the price path. They were given reductions in real terms of between 2.9 per cent for Origin City Power and, as the member for Bright pointed out, 5.6 per cent for AGL—an average reduction of 3.7 per cent. He got one of them; he did not get it all right; but I am prepared to say that in real terms they did reduce the price by that much in Victoria.

I will explain for the benefit of the member for Bright how it was done. The decision of the Regulator for 2004—

The Hon. W.A. Matthew interjecting:

The Hon. P.F. CONLON: You are going to have to listen, Wayne, and you are going to not have to like it. In 2004, what they did was give a nominal increase of CPI minus 1.6 per cent; in 2005, CPI minus 0.5 per cent; in 2006, CPI minus 0.5 per cent; and in 2007, CPI minus 0.5 per cent—nominal increases but a real reduction.

An honourable member interjecting:

The Hon. P.F. CONLON: Even if you do not understand it, he knows what is coming—

Members interjecting:

The Hon. DEAN BROWN: I rise on a point of order, Mr Speaker. My point of order is that the minister was referring frequently to you, and I wondered what role you had to play in it, Mr Speaker.

Members interjecting:

The Hon. P.F. CONLON: I will not use it any more.

The SPEAKER: Order! The minister knows that the Speaker is interested in the answer. The Speaker trusts that the minister will direct his attention to the Victorian electricity prices, whether they have fallen or not, in keeping with the thrust of the inquiry from the member for Colton.

The Hon. P.F. CONLON: Thank you, sir. As I said, I concede that there has been a real reduction, an average of 3.7 per cent, and to give the member for Bright the benefit of the doubt one of them was 5.6 per cent. It went down in real terms by that, by the mechanism that I explained.

The second part of the question was: how does that compare with what happened in South Australia? The Regulator in South Australia, in a three year price path, applied a figure—for the sake of convenience and clarity let us say CPI minus 1.2 per cent for three years—and, in the middle of that, expired a dirty privatisation deal and took a further 6 per cent off. So, what then does the member for Bright say that the Regulator did? According to the member for Bright, he increased the prices—

Mr MEIER: On a point of order, Mr Speaker: I believe that advisers to ministers are not to be in the press gallery during question time, and I believe that is occurring right now.

The SPEAKER: While the chair is not in a position to do so—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. Conlon: Sir, Mr Bildstein is not an adviser any more.

The SPEAKER: Order! I thank the honourable minister for—

Members interjecting:

The SPEAKER: Order! The press gallery should be left for the press during the course of question time.

The Hon. P.F. CONLON: Let me explain again what the Regulator did; he applied a CPI minus 1.2 per cent for three years. Of course, with the logic of the member for Bright, that means a real reduction of 3.6 per cent over that period. However, the Regulator also expired a privatisation deal and took a further 6 per cent off. Now, if the member for Bright was to be consistent with his logic—

The Hon. DEAN BROWN: Sir, in absolute defiance of your ruling, we again have ministerial staff—the same person—up there in the press gallery, and even at this time he refuses to leave. I take exception.

The SPEAKER: Order! He will leave or be ejected.

The Hon. M.J. ATKINSON: Mr Speaker, I have been in parliament for 15 years now, and—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: —all during my time here ministerial assistants, particularly the Premier's media secretary, have provided news releases to members of the media in the mezzanine gallery for as long as I can remember. Vicki Thompson from Premier Olsen's office was there every question time. I rather doubt that your ruling is in accordance with historical practice. Indeed, it is common for me as a member of parliament to come into the media gallery of an evening to see who is in the chamber if I am looking for someone.

The SPEAKER: Order! The honourable member for Stuart has a subsequent point of order, but I will deal with the one raised by the Attorney-General in the first instance.

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order! The Minister for Infrastructure, often helpful in this instance, is not somebody whom the chair seeks to consult. The Attorney-General's observations may well have been where he saw staff members as no more than messengers delivering material to be distributed. It is not in order for them to remain, if they go to the press gallery, any longer—

An honourable member interjecting:

The SPEAKER: Order! —than is necessary to open the door and deliver any printed material to anyone sitting there, and leave without discussing the substance or contents of it. In earlier times, can I tell the Attorney-General, since he raised the point with me, nobody was permitted to do that and, indeed, it became a practice only about 30 years ago.

The Hon. M.D. Rann interjecting:

The SPEAKER: I acknowledge that the former premier Dunstan's assistant probably began the change in practice—

Members interjecting:

The SPEAKER: Order!—behaving, as he did, as a message boy; no more or less loyal to his leader in doing so than anyone else would be. It is not appropriate for ministerial advisers, or anyone else, to disturb the press in their appraisal of the proceedings of the chamber. They should allow them to make their own judgment as to how they will

report, or if they report, the proceedings. It is not possible for the chair to see what goes on in those galleries, and honourable members are within their right to draw attention to it.

The Hon. G.M. GUNN: I have a further point of order, sir. It appears that the Attorney-General has had another memory lapse. During a previous parliament, when the Labor Party was in opposition, they regularly drew to the attention of the chair press secretaries' being in the gallery, and complained most vigorously about it. I ask you to take that into consideration in your ruling.

The SPEAKER: I have, and I note that when things are different they are not the same; but that is not to my mind. There is nothing different. Regardless of whom it may be from time to time in government, the public interest is not served well if lobbyists are allowed to influence the press and its attention to the proceedings and its appraisal of those proceedings in determining how they will report them, if they will report them. Let us move on. The Minister for Infrastructure.

The Hon. P.F. CONLON: So there you are: the Regulator reduced it by CPI minus 1.2 each year for three years and a further 6 per cent—a real reduction of almost 10 per cent. One would think the member for Bright, having referred to the reduction in Victoria, would acknowledge that reduction here, but in the very same press release where Victoria got a reduction we apparently got an increase. Apparently, in Victoria, according to the member for Bright, when you take a percentage off CPI you get a real reduction; here, when you do it, you get an increase. Mathematics are not geographically adjusted.

The SPEAKER: Order! The question was not about the member for Bright, and the minister will cease debating the matter.

The Hon. P.F. CONLON: Okay, sir; but let me make the point: the question was about claims of a 5.6 per cent reduction. It was a 3.7 per cent reduction there and a 10 per cent reduction in real terms here—the same ones the member for Bright used. Apparently, it works that way in Victoria but not in Wayne's world. A big problem is that Wayne's world's population has doubled because Craig Bildstein is now living in it now, too. He had a story that he could not sell to a decent media outlet for four days, no-one would take it, but Craig Bildstein, the former chief of staff to John Olsen, decided to run it. They are bogus figures, absolutely palpably bogus figures that do not meet basic standards of honesty.

Mr Brokenshire interjecting:

The SPEAKER: Order! The member for Mawson offers, but quite unnecessarily, assistance to the Minister for Infrastructure. I think we have a clear enough understanding of the problem and the answer.

The Hon. W.A. MATTHEW: On a point of order, Mr Speaker, the minister in his closing remarks said that the figures I have released do not meet basic standards of honesty. Therefore, he accuses me of improper behaviour, and I ask that he immediately withdraw.

The SPEAKER: The member for Bright is offended by the reflection in the remarks that he has made. Is the Minister for Infrastructure willing to withdraw at the request of the member for Bright?

The Hon. P.F. CONLON: I will not reflect on the member for Bright. What I will say is that the press release went out; whoever was the author put out material that did not meet basic standards of honesty. That is the truth of the matter and I cannot help it.

The Hon. W.A. Matthew: That is untrue.

The SPEAKER: Order! The member for Bright will have the opportunity, more effectively and appropriately, should he believe himself to have been misrepresented to seek leave of the house to explain it.

CHILDREN IN STATE CARE INQUIRY

Mrs REDMOND (Heysen): My question is to the Minister for Families and Communities. Given the minister's indication that he knew of the professional relationship between senior investigator Bill Morris and convicted paedophile Peter Liddy, did the minister not perceive the potential for that relationship to adversely affect the confidence of the public in the commission, and, particularly, the confidence of the victims and potential witnesses?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I have made my position absolutely clear. I acknowledged that I made a judgment about the appointment of Mr—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: Well, I'm afraid I did not foresee a scurrilous, appalling and dishonest attack on a decent South Australian.

STATE BROADBAND STRATEGY

Mr RAU (Enfield): My question is to the Minister for Science and Information Economy. Will the state government's broadband strategy encourage more competition in the telecommunications industry?

The Hon. P.L. WHITE (Minister for Science and Information Economy): The answer to that question is yes. Companies will be vying for business that will be generated by this initiative. Making broadband access mainstream, fast, reliable and affordable will be good for business and the community. On Friday, after several months of intensive negotiations, I was pleased to welcome a new player to South Australian broadband carriage services. Adam Internet, a South Australian internet service provider, has joined forces with ETSA Telecom (and partners Ericsson and NDC) to roll out a $9.6 million investment in a DSLAM network in Adelaide—initially in the metropolitan area, to be followed by regional South Australia. This is a first for Australia, but the main difference is that it does not rely on the carriage services provided by Telstra. The company will backhaul its services using ETSA Telecom's existing fibre-optic network. This means that, without the need to go through a third-party network, which is the traditional method of ADSL delivery, customers will have a direct, high-quality, high-speed link to the internet—in this particular case, with speeds of up to 25MB per second.

This is a significant, exciting investment, which will generate new competition in our state which will lead to faster, more affordable access for South Australian businesses and homes. This is the type of investment that our government is trying to encourage to bring work competition into the industry to provide more affordable and faster access to the internet for the whole community. As members would know, we have invested $7 million over four years through the Broadband Development Fund, which was announced at this time last year. This fund provides funding in metropolitan and regional South Australia where broadband services are either inadequate or non-existent.

In regional areas, demand aggregation has been able to be achieved to bring broadband services to regions, and this is

particularly important. Members will recall that I informed the house that, in the last round of funding, the state government contributed $770 000 to Yorke Peninsula and the City of Salisbury to fund the construction of new broadband infrastructure. The state government has invested in broadband internet services such as Broadband SA, Cine.net, EduCONNECT, SAPAC, eBizSA and Digital Bridge. This strategy that we have launched is all about making sure that we increase the use of the internet and bring more affordable and faster access to businesses, homes and the community.

MINISTER'S REMARKS

Mr HAMILTON-SMITH (Waite): Sir, I rise under standing order 133, which deals with complaints against the media. A moment ago the Minister for Infrastructure complained about the Adelaide *Advertiser*, implying that it was not a reputable newspaper. That standing order specifically requires that the minister give all details as are reasonably possible and be prepared to submit a substantive motion to the house. I ask you to rule as to whether or not the minister should comply with that standing order.

The SPEAKER: The member for Waite raises an interesting inquiry. However, it is a matter for the Minister for Infrastructure to decide. If he makes an aside he is not in breach of standing orders in so doing. Should he see it as more serious and there is a need for the house to address it in a more formal manner, that is open to him.

The Hon. P.F. CONLON (Minister for Infrastructure): Can I say, sir, that some of my best friends are at *The Advertiser*. I have enormous respect for *The Advertiser*. It is just that that story was a disgrace.

Members interjecting:

The SPEAKER: Order!

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Attorney-General. Will the Attorney-General confirm that the government sought and obtained independent legal advice on the Crown Solicitor's Trust Account transactions which contradicted the Auditor-General's findings of these as unlawful and supported the views of former Crown Solicitor Mike Walter; and why has he not made that advice public?

The Hon. M.J. ATKINSON (Attorney-General): When I heard this rumour yesterday I had one of my staff take it up with the Acting Crown Solicitor, Greg Parker, and he assures me, through my staff member, that no such second opinion has been sought. So, from what I can tell, the rumour is not true and I have taken steps to check whether or not it is true, and I will take further steps after question time to ask the question again. But, if the Acting Crown Solicitor tells me that a second opinion which contradicts the first opinion has not been created, then I can only believe what he tells me.

It may be that the rumour-mill is confusing this with remarks by the former crown solicitor that he had provided a four page opinion to the parliamentary committee justifying the view he had of the Crown Solicitor's Trust Account, and I believe the former crown solicitor's opinion (which is different from the government advice) has now been made available by the former crown solicitor Mr Walter.

SCHOOLS, FUNDING

Mr HANNA (Mitchell): My question is to the Minister for Education. Will any South Australian schools be worse off in funding terms or have less flexibility in terms of local school management under the new funding arrangements proposed for 2005?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Mitchell for his question. I know he has an interest particularly in Seaview High School and its funding for the 2005 year. He and many members in this chamber will know that a new funding model has been introduced for the 2005 year which removes the dual funding system, which was complex and bureaucratic (the two-tiered system introduced by the last government as part of their Partnerships 21 program). This dual funding model required extra administrative work and involved some confusion, in that calculations were made using two computer models before any funding could be determined for a financial year.

Some six weeks ago we introduced our 2005 single funding model that will give a better and fairer distribution across the near 170 000 schoolchildren in our government school system. The new model will ensure that all the current policy and industrial entitlements will occur and are maintained, and that there will be additional funding for children with special educational needs—whether they have requirements for English as a second language, disability funding or Aboriginality.

In addition, the funds that are redistributed will guarantee that special purposes can be allocated to needs across the numbers of schoolchildren in all schools rather than in some schools, as were favoured by the previous model. An extra $15.6 million has also been injected into the system to ensure that there are no funding inequities over the transition period and that there is a smooth transition into the new system.

I have looked into the school that the member for Mitchell was particularly interested in—that is, Seaview. Under their global budget they received $5.85 million, I understand, which is slightly more than their statement of resource entitlement in the 2004 year. The new program—

Members interjecting:

The Hon. J.D. LOMAX-SMITH: No; the old global funding model for 2004 was slightly more than the 2004 statement of resource entitlement. The confusion that members opposite are already expressing explains why we moved to one funding model because, in fact, there were two funding entitlements under the old model. There is only one available in the new funding system, and that will remove the confusion whereby people have to look at two sets of numbers. Provided that there are no falls in enrolments—and I understand that Seaview, being a very popular school, is likely to have an increase in funding next year—no school will receive less funds.

The member raises the matter of flexibility, and he quite rightly points to the fact that the transition funding that will be available for schools in our new model—the funding that will be available out of the $15.6 million over four years—will be tied to specific goals and functions. We are really committed to ensuring that those funds are targeted to need. We particularly do not want the funds to be put into accounts and left for future students, because we want each year's funding allocation to be spent on today's students. So, there will be some commitments and perhaps less flexibility, but

we want all the moneys to be expended within this calendar year.

The District Director, of course, will be in charge of the allocations of these additional funds to each school, and I am optimistic that when the council and the principal understand the funding allocation (as I hope they would already) they will realise that there will be no reduction in funds for any schools, assuming equivalent enrolments. In fact, 60 per cent of schools will get substantially more.

CHILDREN IN STATE CARE INQUIRY

Ms BEDFORD (Florey): My question is to the Minister for Families and Communities. How is the government ensuring that the children and young people who come under the guardianship of the minister receive the support and services they require to redress their disadvantage?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank the member for Florey for her important question. Of course, the children under the guardianship of the minister are effectively our children. They are children who do not have parents in the accepted meaning of that phrase, and they rely upon the state to be their parent. That means—

Members interjecting:

The Hon. J.W. WEATHERILL: The member for Bragg says that one of them is dead. That is the sort of really useful and sensitive interjection I expect from those opposite in this rather difficult area of child protection; that is about the standard I expect from the member for Bragg, making a cheap point out of a dead child somewhere in our state.

We take seriously our responsibilities to children under the guardianship of the minister. This government has put in place a protocol that requires all government departments to give priority access to government services to children under the guardianship of the minister. Indeed, we have gone further, and have written to the commonwealth and invited them to participate in this scheme. I have written to the federal Minister for Families and Community Services, Senator the Hon. Kay Patterson, seeking her support to extend priority access to services provided by the Australia government. This could include priority access to placements in child-care centres, child-care payments subsidies, supported accommodation assistance programs and all youth initiatives. I have also requested a bilateral discussion with her to progress that proposal. These are children who have had in most cases an extraordinarily bad start to life. It is crucial that we as a state are able to provide every available assistance to ensure that they progress well.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. I.F. EVANS (Davenport): My question is for the Attorney. Given that the Auditor-General has said that placing unspent agency funds in the Crown Solicitor's Trust Account is unlawful, while the then crown solicitor advised that it was lawful, who should the government and public servants rely upon for legal advice—the Auditor-General or the Crown Solicitor?

The Hon. M.J. ATKINSON (Attorney-General): In this case, the former crown solicitor, Mike Walter, was party to the transactions, so we will take his opinion given to the former chief executive, Kate Lennon, into consideration. The Auditor-General has given a radically different interpretation. The government will make up its own mind.

The Hon. I.F. EVANS: Supplementary, Mr Speaker, to the Attorney: how are public servants protected from disciplinary action against them for undertaking actions that the Crown Solicitor advises are lawful but which the Auditor-General later advises are unlawful?

The Hon. M.J. ATKINSON: In this case the major participants have resigned. The chief executive, Kate Lennon, has resigned. Mr Walter did not seek a further term as Crown Solicitor and he has now retired from public service. The other public servant concerned faced a duly constituted disciplinary hearing at which he received natural justice and was free to present his case. The outcome of that disciplinary hearing is that he was demoted one rung from Executive B to Executive A. He has gone to the unattached list and will be going to a new department.

The Hon. I.F. EVANS: My question is again to the Attorney. Has the Attorney-General sought legal advice about whether it was lawful under the Public Finance and Audit Act and Treasurer's Instructions to backdate a financial transaction to deposit $1 million of police department funds into the Crown Solicitor's Trust Account on 30 June 2003, when approval for the deposit was not actually given until 9 July 2003 and, if so, what was the advice?

The Hon. M.J. ATKINSON: I have not sought advice about that matter, but I did read about it in evidence given by Ms Contala and Mr Emery to the select committee in another place, I think on Friday. I have just read that transcript and I will decide in due course whether to seek further legal advice about the matter. But it is part of the practice which the Auditor-General condemns.

ALTERNATIVE CARE FUNDS

Mrs REDMOND (Heysen): My question is to the Minister for Families and Communities. Did the former CEO of the minister's department, Kate Lennon, discuss with the minister what should be done with alternative care funds unspent as at 30 June 2004? The opposition is aware, from an email obtained through freedom of information, that funds for the SOS Village and for the purchase of 10 houses for emergency accommodation remained unspent as at 30 June 2004.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank the honourable member for her question. I have had, indeed, the opportunity to check some of the material that she referred to yesterday in her question, and there are two very important factors here. The relevant alternative care funds that are referred to were, in fact, expended, for all relevant purposes, before the end of the financial year. So the question of there being a need to park them in any Crown Solicitor's Trust Account never arose.

Due credit must go to the relevant officers in the new Department for Families and Communities. It is something for which I do not take credit, but the new officers are entitled to take credit for it. Six of them, as the honourable member noted, did meet to discuss a notion that was raised by, I think, the chief executive designate at that time, Kate Lennon—who at that time was not the chief executive of the department because it had not been formed—to park moneys in the Crown Solicitor's Trust Account. They amongst themselves decided that that would be an inappropriate thing to do because it would be in breach of the Public Finance and Audit Act.

It seems that some people, at least, are able to find their way to the correct conclusion about what is lawful and unlawful to do with funds that may remain unspent at the end of the financial year. What in fact happened is that all relevant expenditure authorities were raised before the end of the financial year. Because a number of them involved transactions in relation to properties and because the Crown Solicitor was the conveyancer, some amounts of money did find their way to the Crown Solicitor's Trust Account, but for the proper purpose.

Mrs REDMOND: Could the minister explain what is a relevant fund and what is not a relevant fund?

The Hon. J.W. WEATHERILL: I do not seek to supplant the Auditor-General's opinion with my opinion, but it seems to have been well canvassed in the report of the Auditor-General that parking funds in a Crown Solicitor's Trust Account for the purpose of evading a Treasurer's Instruction, thereby causing inappropriate accounts to be presented publicly, is unlawful. I would have thought that that had been well established, and that is what did not happen in my agency.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.G. KERIN (Leader of the Opposition): My question again is to the Attorney-General. Given the controversy surrounding deposits in the Crown Solicitor's Trust Account, has the Attorney-General ascertained which departments had deposits in the Crown Solicitor's Trust Account and ensured that all ministers were informed of those deposits?

The Hon. M.J. ATKINSON (Attorney-General): That matter was the subject of the Auditor-General's Report and all ministers were thereby informed.

ECONOMIC AND FINANCE COMMITTEE, CORRESPONDENCE

Mr HAMILTON-SMITH (Waite): My question is to the chair of the Economic and Finance Committee, the member for Reynell. Has the Economic and Finance Committee received a letter from a future witness to that committee containing confidential personal information, and did the chair of the committee publicly and wilfully air that information on ABC radio this morning?

Ms THOMPSON (Reynell): The letter received did not indicate in any way that the information was confidential.

Mr HAMILTON-SMITH: As a supplementary question, is the chair of the Economic and Finance Committee aware of a letter to the committee from Ms Kate Lennon dated 12 November 2004?

Ms THOMPSON: Yes.

Mr BRINDAL: On a point of order, sir, my understanding of the Parliamentary Committees Act is that all correspondence to a committee is the property of the committee, and I would ask you to rule on whether the Chairman of the Economic and Finance Committee is in breach of that act and may be in contempt of the parliament by publishing material without the authorisation of her committee.

The SPEAKER: The chair will consider the inquiry.

HOSPITALS, ROYAL ADELAIDE

Ms CICCARELLO (Norwood): My question is to the Minister for Health. What has been done to upgrade the radiology department at the Royal Adelaide Hospital, and how will patients benefit from the improved facilities and new equipment?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for Norwood for this very important question. The Royal Adelaide Hospital's radiology department is the largest in South Australia, conducting 130 000 examinations each year and employing 168 staff, including 20 radiologists and 10 registrars.

The department has received a $4.4 million building upgrade, including a purpose-built interventional suite, with two procedure rooms, which is equipped with $3.7 million of new equipment including a new CT scanner, angiography unit, as well as ultrasound and digital imaging equipment. These improvements will make services more efficient and more timely. Whereas the old radiology department was spread over two separate floors, now almost all services are in one location; so there is less patient movement, communications are improved and waiting times are reduced.

Radiology has been relocated right next to the emergency department, which reduces the need to transfer sick patients to other floors and buildings for imaging. There is also a much improved reception and booking area. The new department will provide a comprehensive statewide imaging service to in-patients and out-patients, as well as training medical students, radiologists and radiographers.

The new CT scanner and other new equipment has dramatically shortened waiting times, with emergency patients, in-patients from the wards and out-patients all able to receive their imaging much more quickly. The new facilities have also meant a further expansion of sophisticated neurological and vascular intervention services, which means investigations that previously required admission can now be completed in a few minutes as an out-patient.

CHILD PROTECTION, SPECIAL INVESTIGATIONS UNIT

Mrs REDMOND (Heysen): My question is to the Minister for Families and Communities. Will the minister confirm that some officers of the Special Investigations Unit involved in the 90-plus investigations by the unit had no adequate training in the area of investigating and dealing with potential victims of child abuse? The department's own guidelines make very clear the need for and importance of investigators working with potential victims of child abuse to be properly trained to avoid causing anxiety and psychological damage.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): There is one thing for certain: we would not be having any difficulties with the Special Investigations Unit if the previous government had won the last election, because there would not have been one. I cannot confirm that, because it is simply not the case. We have proper officers who have relevant skills and training to discharge the delicate task of investigating these allegations of abuse in care in an appropriate and effective fashion.

MOUNT BARKER CHILD AND ADOLESCENT MENTAL HEALTH SERVICES

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is to the Minister for Health. Why did the minister infer in parliament on 25 November—

The Hon. M.J. Atkinson: Imply, not infer. The listener infers.

The Hon. DEAN BROWN: —that she was not aware—

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: Why did the minister imply in parliament on 25 November this year that she was not aware of the cutback in child and adolescent mental health services at Mount Barker by over one-third when a letter was sent to her on 21 September 2004 (two months earlier) informing her of the cutback in staff and when over 20 subsequent letters have been sent to her? A GP in the Mount Barker area has written to me expressing concern that, on an equitable population basis of children under the age of 19, the number of mental health therapists for children and adolescents should be substantially increased in the Adelaide Hills, not reduced by one-third.

The Hon. L. STEVENS (Minister for Health): Mr Speaker, at the time when I was asked that question I did not recall that information, but I am very pleased to be able to tell the parliament (and the initial question came from the member for Kavel; I was preparing a reply for him; and I am not sure that he really needed the deputy leader's assistance in handling this issue) that nevertheless the issue is now being dealt with in relation to the continuance of the position concerned. I am very pleased to say that I believe that the Southern Adelaide Health Service, under the guidance of the new regional manager, David Swan, is dealing with the issue, and his information to me is that it will be resolved in the next day or so.

SOUTHERN SUBURBS, EMPLOYMENT AND TRAINING

Ms THOMPSON (Reynell): Can the Minister for Employment, Training and Further Education advise the house of the state government employment and training assistance measures for residents of the southern suburbs?

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I would like to thank the member for Reynell for her question. I know that she, and the Minister for the Southern Suburbs, have been tireless advocates for employment and training programs in the south. The member for Reynell was also present last week when I announced that the government would commit $662 000 to new programs in the southern suburbs, with matching contributions from business and local government. There will be almost $1 million of new funding available to assist over 470 local people into training and jobs. The Regions at Work program for the south is part of the government's South Australian Works program, which aims to assist over 6 000 South Australians into work. Regions at Work involves a partnership approach between local communities to build skills, jobs and opportunities in the relevant region. Regions at Work initiatives undertaken this year have resulted in 200 people winning jobs in the southern suburbs. The new initiatives respond to key skill demands of industries in the region, such as the two largest employers, manufacturing and retail, as well as hospitality, the wine industry, construction, aged and community care.

An Employment and Skills Formation Network has been formed in the southern suburbs. The network includes local government, the Office of the South, regional development boards, TAFE, schools, commonwealth government agencies, business enterprise centres, employment agencies and community groups. One important funded initiative is The Shed, which is designed to support young people in the region to make the transition to work, and also to provide a broader labour force with multiple skills to increase full-time employment.

I would like to mention some other projects in this area:

- the Youth Employment Alliance, which began in 2002, will see a further investment of $60 000 to encourage business associations across the cities of Marion and Onkaparinga to support their members to take on 40 young people as apprentices and trainees;
- the Kaurna Enterprise Development funding of $60 000, which will support southern councils (Onkaparinga, Marion, Yankalilla and Holdfast Bay) with the development of sustainable businesses for Kaurna people in the region, as part of the Kaurna Reconciliation project; and
- the industry specific skills training that will see over $375 000 directed towards training in the areas of manufacturing, retail, hospitality, aged and community care, viticulture and construction. A range of these projects has been developed to provide training for over 120 unemployed people to meet the ongoing needs of local employers.

SA WATER, COUNCIL RATE CONCESSIONS

Mr WILLIAMS (MacKillop): My question is to the Minister for Administrative Services. Why is South Australia withholding pensioner concession reimbursements on council rates to South Australian councils? The opposition has received an email from the Mid Murray Council which states:

> Council has not been reimbursed for pensioner concessions on rates through SA Water this year. There is $208 912 owing to the council. The claim was submitted nearly two months ago, and SA Water has advised that there is no money to pay us and half the other councils.

SA Water is the responsible body for processing the payments of council rate concessions to councils.

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries): I take that question on behalf of my ministerial colleague and will get an answer back to the house.

SOLAR SCHOOLS PROGRAM

Mrs GERAGHTY (Torrens): My question is to the Minister for Education and Children's Services. What progress has been made with the South Australian solar schools program?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): Last week I had the opportunity to go with the Premier to flick the switch for solar panel installation. A batch of 17 schools all switched on solar power systems simultaneously. One of those schools was in the member for Torrens' electorate at Ross Smith. The secondary school was one of the first 17 schools to get solar power, and I am pleased to inform the house that the Premier

has announced an extension of the program to a further 19 schools, to occur over the next few weeks.

This program is particularly useful, because it fits in with our water sustainability programs in schools, our perspective as a sustainable government, our whole strategy towards running our services in an exemplary manner and our acting as role models in the community. It invests in local schools, saves electricity and reduces greenhouse gases. It is useful in the educational setting because it allows schoolchildren to understand that solar energy not only can power their schools and reduce greenhouse gases but also can return electricity to the grid. Some of the hottest and sunniest parts of the year are during school holidays, when the schools are not in place, and that power can be resold back into the national grid system.

I am delighted at the way in which this program has progressed. It is part of our strategy to put the panels in 250 schools over the next 10 years, which will be a significant step forward in sustainability. It fits well with our sustainable water program and our programs in schools. It is a $1.25 million strategy which meshes with our $1 million water saving strategy, and it is a way in which we engender support for environmental values within our schools and school communities. Inevitably, the learning that young people get in their school can be taken home. It is used then in domestic situations where many children encourage their parents to have solar-powered systems and to be into mulching and water retention.

The Hon. W.A. MATTHEW (Bright): I have a supplementary question. Will the minister advise the house what proportion of the funding for the solar systems to which she referred is met by the federal government?

The Hon. J.D. LOMAX-SMITH: I do not believe that funding comes from the federal government. I am happy to look into the matter. We put in $1.25 million, and we give those funds on a two-for-one basis to schools that apply to be part of the program. It is a popular program. It is very popular in regional areas where there has been some investment in solar energy from the federal government, but, to my knowledge, there are no federal funds as part of this program. I am happy to look into the matter and come back to the honourable member.

SA WATER, COUNCIL RATE CONCESSIONS

Mr WILLIAMS (MacKillop): With your indulgence, now that the Minister for Administrative Services has returned to the chamber, I will ask the question I asked previously. Why is SA Water withholding pensioner concession reimbursements on council rates to South Australian councils? The opposition has received an email from a Mid Murray council which states:

> Council has not been reimbursed for pensioner concessions on rates through SA Water this year. There is $208 912 owing to council. The claim was submitted nearly two months ago. SA Water has advised there is no money to pay us and half the other councils.

SA Water is the responsible body for processing the payment of council rate concessions to councils.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I apologise to the house for not being here when the honourable member asked the question earlier. I understand that a payment from the Department for Families and Communities to SA Water for reimbursement of concessions was delayed. As a consequence, any council claims were also delayed. SA Water has advised me that all council claims outstanding as at 6 December 2004 will be paid by 17 December 2004 at the latest.

EMERGENCY SERVICES

Mrs REDMOND (Heysen): My question is to the Minister for Emergency Services. In the light of the minister's comments, as reported in the *Sunday Mail* of 28 November 2004, that home owners who make no effort to clear their properties will be left on their own during bushfires, will he provide advice to my constituent who has twice attempted to obtain permission to remove a large stringy bark tree immediately adjacent to and overhanging his house but has been denied permission to do so?

The Hon. P.F. CONLON (Minister for Emergency Services): I assure the member that I have not received any application to remove a stringy bark tree. If I do receive such an application, I will treat it with all seriousness on its merits, but I am not sure what authority I would have to approve it. I have never approved, and I do not expect in the future that I will approve, the removal of stringy bark trees.

Mrs REDMOND: Then will the minister provide advice on how our emergency services will assess which houses will be defended?

The Hon. P.F. CONLON: I have sympathy for this person, so I will find out who is in charge of stringy bark trees and we will do something about it, but let me tell you this—

An honourable member interjecting:

The Hon. P.F. CONLON: Well, why didn't you ask him then! The honourable member's supplementary question carries the implication that there is something wrong in what I said about the fact that I do not expect firefighters to go into death traps. I said that on the advice of the Chief Officer of the Country Fire Service, and I stand by it: I do not expect firefighters to go into death traps, and neither does the Chief Officer.

STATE BROADBAND STRATEGY

The Hon. P.L. WHITE (Minister for Science and Information Economy): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: The state government took another step last week towards ensuring that South Australians will have affordable access to a broadband internet service in the future with the release of the State Broadband Strategy. The State Broadband Strategy aims to increase the number of South Australians using broadband internet daily as a tool for business, research, learning and community life.

An honourable member: You told us this before.

The Hon. P.L. WHITE: No, I didn't. The State Broadband Strategy will be a working document and will be updated over time. It will target: business, with a particular focus on the state's crucial small and medium enterprise sector; community, including libraries, the arts and the nonprofit sector; education, comprising schools, the vocational education and training sector and the university sector; health,

including public and private providers, GPs and allied health providers; government, encompassing both internal government business and the delivery of government services (other than health and education); and research, comprising both public and private sector researchers.

This challenge is encapsulated in seven objectives to be achieved by 2008. In terms of opportunity, we want every person and business in South Australia (if they wish) to be able to obtain connection to an affordable broadband service. In terms of household use, we want the proportion of South Australian households that are regular users of broadband to meet or exceed national benchmarks. In terms of business use, we want business (representing 95 per cent of the state's gross domestic product) to be using broadband as a necessary part of doing business.

For buyers, we want regional and metropolitan communities to be adept at using collaborative strategies to bring aggregated broadband demand to the market. For sellers, South Australia's broadband marketplace will be characterised by a vigorous mix of local and national service providers. For health and education, we want the state's health and education sectors' access to and use of broadband to meet or exceed national benchmarks. And in terms of research, we want all major research sites in metropolitan Adelaide to be connected directly to the national research network by means of optical fibre.

The State Broadband Strategy aligns with South Australia's Strategic Plan and our Science, Technology and Innovation Vision, STI[10] (a 10-year plan) by increasing the number of South Australians using broadband services. It aims to improve creative learning, business development, access to infrastructure and improved research capacity for the state.

I acknowledge, in the development of this strategy, the contribution of the Information Economy Advisory Board headed by Professor Chris Marlin.

LOCAL GOVERNMENT ACTIVITIES

The Hon. R.J. McEWEN (Minister for State/Local Government Relations): I seek leave to make a brief ministerial statement.

Leave granted.

The Hon. R.J. McEWEN: Today I tabled in this house the document titled 'Local Government Activities 2003-04: Report on activities conducted by the State Electoral Office' provided to me by the Electoral Commissioner. The report provided some data relating to the conclusion of the May 2003 periodic elections, including roll management and the outcomes of petitions lodged in the Court of Disputed Returns.

The main focus of the report, however, is to summarise the activities undertaken since the periodic elections, including monitoring of ward quotas, roll maintenance and supplementary elections. The Electoral Commissioner advises that he expects around 19 representation reviews will be undertaken before the next periodic election in 2006 and that, as at the reporting date, six councils were being monitored in relation to quota tolerance. Eleven supplementary elections were conducted in the reporting period.

Mr Speaker, I congratulate the Electoral Commissioner and his staff on the professional conduct of local government activities in the reporting period. In his report, the Electoral Commissioner refers to the impending clash between state and local government elections that will occur under current legislation in 2006 and to the review, led by the Local Government Association, of current election and representation provisions. The report seeks a 'clear resolution of the findings of the local government review by the end of 2004'.

I can advise that the Local Government Association has completed the review and provided me with its submissions on the changes considered desirable in the collective view of local government. It has also provided an independently produced report on submissions received from community groups and individuals. These documents are accessible on the LGA web site.

I expect to be able to provide further information in the near future on proposed legislative changes arising from the review which will address the Electoral Commissioner's concerns.

GRIEVANCE DEBATE

CROWN SOLICITOR'S TRUST ACCOUNT

Mr HAMILTON-SMITH (Waite): I foreshadow to the house that at tomorrow morning's meeting of the Economic and Finance Committee I will move a motion of censure in the Chair (the member for Reynell) after she made public statements on ABC Radio this morning threatening a medically unwell potential witness with a summons and incarceration. I do not know whether the Chair of the Economic and Finance Committee is mischievous, devious or stupid—

Mr KOUTSANTONIS: I rise on a point of order, Mr Speaker. I understand that this is a matter that is before the house.

Mr Hamilton-Smith: No, it is not. It is an unrelated matter. It is not the censure motion: it is another one. Wake up!

Mr KOUTSANTONIS: I am asking the Speaker. Is it, sir?

The SPEAKER: The matter, to the best knowledge of the chair, is not before the chamber.

Mr HAMILTON-SMITH: Thank you, Mr Speaker. On ABC Radio this morning—

The SPEAKER: The honourable member for Enfield has a point of order.

Mr RAU: Thank you, sir. Whatever the member wishes to draw to the attention of the house in his contribution at the moment, he started, unfortunately, by putting a gloss on a media report which—

Mr Hamilton-Smith: What is the point of order? What standing order?

Mr RAU: He is misleading the house, Mr Speaker. He is making a deliberately (that is the only assumption I can make) inaccurate representation about what was said on the radio. If he wants to quote what was said that would be a different matter, but he is saying things about a member of this chamber which anyone with a transcript could tell are false.

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

Mr HAMILTON-SMITH: Thank you, Mr Speaker. They do not like it, because they are involved in a massive cover up in regard to the 'Slushgate Affair'. On ABC radio this morning—

Mr KOUTSANTONIS: I rise on a point of order, sir. I find the reference to members on our side being involved in

a massive cover up offensive, and I ask the member to withdraw immediately or move a motion.

The SPEAKER: Order! The honourable member takes offence, but I have to tell the honourable member that what has been said is not unparliamentary.

Mr Koutsantonis: He has accused me of corruption, sir!

The SPEAKER: The honourable member for West Torrens has an interesting way of translating. I did not hear the word 'corruption' used at all.

Mr RAU: Mr Speaker, I rise on a point of order. I am actually a member of the Economic and Finance Committee and the member's remarks were directed specifically towards government members of that committee. His remarks were to the effect that members of that committee were engaged in a cover up, which is clearly improper conduct on the part of government members. I do take offence at that; I am a member of that committee, and I ask that the member withdraw that particular assertion.

The SPEAKER: The honourable member did not expressly state that it was the members of the committee whom he regarded as being exclusively involved in dealing with the proposition in the straw man, if that is what it is, to which the honourable member for Waite refers. Notwithstanding that, it is a matter which would probably be better dealt with in a substantive motion than in a grievance debate, and I will listen carefully to ensure that it does not stray into the area of personal invective and attack.

I also point out to the member for Waite that committee business is best conducted in the committee, until and unless the committee makes a report to the house or a report on a minority report.

Mr HAMILTON-SMITH: Very well, sir. That is exactly my point—committee business is best left in the committee. On ABC radio this morning, Ms Thompson said that the committee would be 'considering at tomorrow morning's meeting what steps we will now take in relation to Ms Lennon's appearance before the committee', even though the committee has received written advice from Ms Lennon and her doctor that she will not be well enough or fit to be cross-examined until at least 23 December. Ms Thompson later said, 'We can issue a summons', and in response to the question, 'What happens if she still can't make it?', Ms Thompson said it could 'result in incarceration'. Later she said, 'That's what we have to make judgments on.'

A moment ago in question time I asked the member for Reynell whether she was aware of confidentiality linked to statements she made this morning. Well, the committee has received correspondence from Ms Lennon on 12 November and again on 22 November, as well as from her doctor on 6 December. In particular, the 12 November letter says, 'Please treat my medical condition as confidential.' She specifically asked the committee not to go into the reasons associated with her inability to attend, they being medical reasons. Ms Thompson inferred that standing orders in the act 'do not make provision for a sick certificate', and that refusal to turn up at the committee can be 'a contempt of the parliament'.

In my view, Ms Thompson's comments are inappropriate and could be perceived by a potential witness as a threat to require her to attend even though sick. At the very least, the comments are harsh and unreasonable, in my view, and show little consideration for Ms Lennon's health. We have had an incident in Queensland, through the Energex matter, of a senior public servant committing suicide under such an inquiry.

We have had another case in Western Australia of Ms Penny Easton committing suicide when under parliamentary inquiry. We now have a person who has asked us not to reveal her medical condition, and who is getting pressure from the chair of the committee on ABC Radio, and threatened with incarceration and summons, should she not appear for medical reasons. It is absolutely outrageous! The chair of this committee should not be in the post, and tomorrow morning the committee will consider a motion. I ask members opposite whether they will have the courage to reflect upon what happened to Ms Easton and the victim of such attacks in Queensland, and ask if they will lay off Ms Lennon until she is fit enough to appear before an inquiry. I do not care which committee she comes before, as long as she is fit and well enough to come.

Mr Koutsantonis interjecting:

The SPEAKER: Order! The chair will not go outside at the behest of anybody in this chamber, least of all the member for Torrens. The honourable member for Enfield.

Mr RAU (Enfield): I think that, in view of the last contribution which, I assume, was for the benefit of the media and his supporters for the leadership challenge, we might actually move the tone of this thing down to reality, and just get a few facts straight. The first thing the parliament should be aware of is that the accusation that has been made against me and my colleagues on this committee is that we are somehow involved in a cover-up. I would like to place some pertinent facts before this chamber. First of all, a couple of weeks ago, we had a meeting of the Economic and Finance Committee at which the Auditor-General appeared in order to give evidence about a matter of relevance to the committee: the matter of his report to this parliament identifying this whole affair which has gone on for weeks and weeks and weeks. It is difficult to imagine a more relevant consideration for that committee.

What happened when the Auditor-General attended that committee—because, I presume, large numbers of our friends from the media with their cameras were present—the honourable member for Waite interjected persistently, after raising numerous points of order and other spurious excuses for delaying the matter, and he prevented proceedings for over an hour. The Auditor-General sat in that room for over an hour listening to raucous interjections from the honourable member, to the point where the Auditor-General was presented with an option of either talking over the honourable member or behaving with some dignity—which was called for, I must say, in that meeting—and sitting quietly until he was given a small window of opportunity to say a few remarks.

It so happened that the din and raucous behaviour from, in particular the member for Waite, went on long enough for him to first of all stand up—it is not something that has been common in the past in that committee. But the member for Waite decided that it was necessary for him to stand up, presumably so that the television cameras had a better view of him as he made these raucous points. Nonetheless, he stood up—a new matter—and made these raucous interjections over and over and over again—

Mr Koutsantonis interjecting:

The SPEAKER: Order, the member for West Torrens!

Mr RAU: He was behaving much like that, Mr Speaker, but much worse. He stood up to do it so that he could be on telly, and at the end of this process—he timed beautifully—he only stopped being raucous when the bells were ringing to

call members into this chamber at 25 minutes past 10. And so full points to him. But this is the person that accuses other members of the committee of a cover-up, the person who does not want to hear from the Auditor-General. He does not want to hear what the Auditor-General has to say, who I would have thought is somebody who should be reporting to that committee, should be reporting to the parliament, when it suits him. The honourable member decides he is going to bluster, bluff, puff himself up and make a great deal of noise until the Auditor-General cannot be heard.

Now, the question about Ms Lennon: she has been invited to appear before that committee a number of times. She has already declined twice. She has been invited because evidence was obtained from the Auditor-General some weeks ago which made remarks about her, and Mr Walter. The committee took the view that she should be given the opportunity—under privilege, as the Auditor-General was when he spoke—to come to the committee and give an account of herself. She has declined on two occasions: fair enough. However, we then discover in a media release on television that she is intending to speak to a different committee established after our committee—and I wonder whether there is some point there; we are not supposed to have repetitive committees going on, after all—a select committee of the upper house, and she says that she is prepared to go up there, so it would appear. She was again invited to come to the Economic and Finance Committee this Wednesday. She has not been summonsed.

The member for Waite took some time finding out about this on Monday at the meeting. 'Has she been summonsed?' he asked. No, in terms of the legislation, she was invited to come along. 'But has she been summonsed?' No, she has not. I do not know how many times he needs to hear that, but I will say it to him again: no, she has not. She has not been summonsed. The member for Waite knows that she has not been summonsed, because he was there. He asked these questions and he knows that it is absolute nonsense. I look forward to tomorrow.

ELECTRICITY, PRICES

The Hon. W.A. MATTHEW (Bright): During question time today we saw the Minister for Energy yet again place another spin on what has happened with electricity prices in this state. The situation is actually very simple. The simple fact of the matter is that as of 1 January next year the price of electricity will have gone up under this government by 25.2 per cent. It is very simple: no dollars and cents are necessary for this analysis. The average electricity consumer will have received a 25.2 per cent increase in a period of just two years, and that is from a government which, at the last state election, promised to deliver South Australians cheaper electricity. The simple fact of the matter is that the government has failed to deliver on its undertaking. It has broken its fundamental election promise.

I have simply said through the media to South Australians, who may be confused about the minister's spin and the opposition's reply, that all they need to do is retain copies of their electricity accounts and compare them. And there is no doubting that, when South Australians compare their electricity accounts at the end of the 2004-05 summer, they will see that their electricity prices are higher than they were the previous summer and higher again than they were the summer before that. What has occurred is that a series of electricity price increases has been locked in, and those increases have been locked in for retailer AGL until 1 July 2007.

What the minister has endeavoured to do is pick up on a once-off cut in the cost of the services provided by ETSA Utilities that will occur on 1 July next year. In all the minister's public performances, in all his utterings in this house, he has conveniently not included the AGL increases. To make the exercise very simple for all members of parliament, I seek leave to have incorporated into *Hansard* a table which is purely statistical and which details in percentage terms electricity price increases from 2003 to 2007 in South Australia.

Leave granted.

SA Electricity price increments 2003-07 (excluding GST)
(based on ESCOSA draft determination December 2004)

Nature of Change	Price Change	Date of Effect	New Price (Compounded %)
Starting price		31/12/02	100
Market deregulation	(+) 23.7%	1/01/03	123.70
AGL increase	(+) 1.2%	1/01/05	125.2
ETSA Utilities cut	(-) 6%	1/07/05	117.7
AGL increase on 50% of electricity bill	(+) CPI (2.5)—1.05%	1/07/05	118.6
ETSA Utilities increase on 40% of electricity bill	(+) CPI (2.5)—1.3%	1/07/06	119.2
AGL increase on 50% of electricity bill	(+) CPI (2.5)—1.05%	1/07/06	120.1
ETSA Utilities increase on 40% of electricity bill	(+) CPI (2.5)—1.3%	1/07/07	120.7
AGL increase on 50% of electricity bill	(+) CPI (2.5)—1.05%	1/07/07	121.5

Note:
(1) Price increases will be greater if CPI is more than 2.5%
(2) A new determination for AGL's 2008 prices will be made in 2007
(3) ETSA Utilities will have an increase of CPI minus 1.3% on 1/07/08 and 1/07/09

The Hon. W.A. MATTHEW: The table is a very simple guide to what has happened with electricity prices in South Australia, giving a starting price of 100 per cent as at the day before electricity market deregulation and then, when the market deregulation occurred under this Labor government, electricity prices for AGL went up by 23.7 per cent and continue to increase for AGL. There is no price reduction for retailer AGL. This contrasts in an interesting manner with the situation in Victoria. We heard a number of spins put on this by the minister.

First, the minister tried to blame privatisation. I seek leave to incorporate into *Hansard* a further table, which again is purely statistical and which shows the Victorian electricity price increments from 2002 to 2007.

Leave granted.

Vic electricity price increments 2003-07 (excluding GST)

Nature of Change	Price Change	Date of Effect	New Price (Compounded %)
Starting price		31/12/01	100
Market deregulation (AGL increase)	(+) 4.7%	13/01/02	104.7
AGL increase	(+) 3.1%	1/01/03	107.9
AGL increase	(+) 0.5%	1/01/04	108.4
AGL increase	(+) CPI (2.5)—1.5%	1/01/05	109.5
AGL increase	(+) CPI (2.5)—0.9%	1/01/06	111.3
AGL increase	(+) CPI (2.5)—0.9%	1/01/07	113.1

Note:
Price increases will be greater if CPI is more than 2.5%

The Hon. W.A. MATTHEW: This table shows what has happened for retailer AGL in Victoria. Of interesting note is the fact that, when market deregulation occurred in Victoria, the electricity prices for AGL went up by 4.7 per cent. In contrast, Labor in this state allowed them to go up 23.7 per cent—in other words, a 19 per cent increase.

The other thing the minister endeavours to do is blame the network costs. He says that a dirty deal was done and blames the network costs that have been handed on by ETSA Utilities. In simple terms, if ETSA Utilities' price has been reduced only 6 per cent, and regardless the price of electricity has skyrocketed under this Labor government, where have the other increases come from? They have come from this government's leniency, its inability to deal with electricity retailers, and its laziness and laxity in introducing legislation to the parliament when it should have been fostering competition to allow other retailers to be ready to compete from 1 January 2003. Had the minister done that, had he not been lazy and tardy in bringing this legislation to the house, three retailers would have been ready.

Time expired.

LITTER

Mr CAICA (Colton): Today I wish to speak about a matter that I have raised previously, and that is litter. Previously I have spoken about the litter that we find on our beaches, and often that litter comes from people who use the jetties. Today I want to talk about litter in general or, if you like, general litter and look at a couple of examples within my electorate.

I refer, first, to the Target shopping centre at Fulham Gardens: you only need to go to that shopping centre on a Friday morning, Saturday morning or Sunday morning—or any morning during the week but in particular on the weekends—to see the amount of litter and rubbish in that car park. Adjacent to that car park within the complex is a McDonald's. On Friday night, Saturday night and weekends you will see literally hundreds of cars parked within that car park, and after people have downed their big mac, double whopper or whatever it might be, they then throw the rubbish, it seems, straight out the window of the car. It is a horrible sight the next morning, or at any time.

I know that a lot of my constituents have complained about that rubbish. To the credit of McDonald's, they do have people going around and picking up that litter on the mornings after these nights. Whilst McDonald's will take some responsibility for it, it is the responsibility of those people who are using that car park to eat their take-away food to make sure that they dispose of their litter properly.

Another problem of a similar nature is in the car park at the Lockleys Hotel, where we have a Hungry Jack's. Again, a significant amount of rubbish is being ejected from cars by people who eat their whoppers or drink their thick shakes in the car park. It is the responsibility of each and every one of us, including those people, to dispose of that litter properly.

Organisations such as McDonald's and Hungry Jack's can take even more responsibility by making sure that the containers in which they sell their products are recyclable and lend themselves to a better form of disposal than is currently the case.

If we compare those examples with the Findon shopping centre at the corner of Grange Road and Findon Road, you will see no rubbish whatsoever there, because there are no take-away food outlets at that site.

Henley Square has changed significantly over the last few years. If you look at the amount of restaurants and take-away food outlets at Henley Square, as well as the number of people who congregate there on warm nights during the summer period, you will see that we have a significant problem with litter disposed of within that square that finds its way onto the beaches and adjacent areas. Unlike Hungry Jack's and McDonald's, I do not believe that at the moment there is a collective approach by those take-away outlets or restaurants at Henley Square to look at the role they should play in cleaning up the litter that is left there. It is very

disappointing for someone who has lived in that area for a long time and, indeed, the residents who have lived there for a long while, to look at what has happened to their square with respect to the litter that is disposed of in that area.

I will finish my remarks today by talking about the litter that comes off the Henley and Grange jetties, and I guess other jetties. I fish, as do a lot of people, but whatever rubbish I take onto the jetty I bring home with me. However, a lot of fishermen throw their plastic bags, bait containers, and offal from the crab nets over the side and it finds its way back to the shore. It then becomes the responsibility of the council to pick that rubbish up or, indeed, as was the case this morning when I was down there at 6 o'clock, for me and others to bring back more rubbish from the beach than what I had gone down with—to pick up that which has found its way to shore. So, I call on those who use the jetties, and those who use Henley Square, to take a different approach.

There was a famous man that once said, 'Shoot one, and you educate a thousand.' I am not suggesting that we shoot those litterers, but I think that we could probably pinch a few of them from time to time, invoke the $300 enforcement that can be applied when people litter, and that might assist the educative process. I congratulate KESAB for the role that it played in a meeting that we held recently to look at placing bins on both the Henley and Grange jetties. A meeting was recently held with ministers' representatives, KESAB, and the local council, and we will look at ways by which we can place bins on the jetty, have them emptied, and perhaps reduce the amount of litter that finds its way to the beach. As I said earlier, it is up to each and every one of us, it is our responsibility, to make sure that we do not litter.

Time expired.

TOD RESERVOIR DESALINATION PLANT

Mrs PENFOLD (Flinders): It seems that the desalination plant proposed for the Tod Reservoir near Port Lincoln on Eyre Peninsula has evaporated. The government's vision, as stated in the SA Water Charter, is to seek:

> . . . to ensure that South Australians have access to quality water services that promote the health of the public and are sensitive to the natural environment.

The original promise regarding the desalination plant was made at a community cabinet meeting in Port Lincoln in 2002 by the Minister for Government Enterprises, Patrick Conlon—

The ACTING SPEAKER: Order! The member will not name members of parliament but rather use their electorate title or ministerial title.

Mrs PENFOLD: —the Minister for Government Enterprises, and was for a $32 million public/private partnership. The former minister for administrative services, on ABC Radio on 4 June 2003, said that the desalination plant was 'written in blood', yet it is not even listed in the state infrastructure projects for SA Water, despite trials costing $335 594 at the Tod Reservoir last year. Now there are rumours that it has been shelved altogether. If this is true, and I am assured that it is, it is a condemnation of the Labor government's lack of integrity and the lack of social concern for, and commitment to, a potable water supply for the people of Eyre Peninsula. The need for desalinated water to augment the current diminished underground supply is urgent as, in my view, connection to the River Murray is not an option.

Despite the promises made by this Labor government, the desalination plant proposed for the Tod Reservoir is not listed in the 2004 Major Development SA Directory, nor is it mentioned in the SA Water Annual General Report, tabled recently in parliament, which announced a profit to the government of $261.6 million for the year 2003-04.

I do not believe that a desalination plant on the Tod was ever going to be the full solution. We need more water than that option could provide to fulfil the existing and potential requirements for good water on Eyre Peninsula. Therefore, we should be planning a major seawater desalination plant at Port Lincoln, or one using the underground basin at Polda. I question whether water needs to be unpotable before the Rann Labor government decides to do something about addressing the water crisis on Eyre Peninsula.

I have been advised that overdrawing the last major underground basin, south of Port Lincoln, would bring in saltwater from the sea, and this must be avoided at all costs. If our remaining water supply becomes contaminated by seawater to a point from which it cannot be reversed, the vast majority of Eyre Peninsula will be without a suitable supply of reticulated potable water. Water will all have to be supplied from desalination. Both quantity and quality are important. We must have sufficient water but it must also be useable water. Salinity and chlorine levels are unacceptable over much of Eyre Peninsula during the summer, and I have already been told of one butcher shop in a country town that could not get accreditation because of the poor quality of the reticulated water there.

To enable them to keep their butcher shop, the local council had to assist with a filtration plant to comply with safety requirements. I am now bypassing the government and SA Water in an attempt to secure an improved water supply for Eyre Peninsula. I have put in a freedom of information request to the department to obtain details of the service currently being provided by SA Water in the region.

Perth is planning a $350 million-plus desalination plant that will supply about 20 per cent of its water requirements, and I was interested to note that a private company is proposing a water desalination plant for Whyalla, Port Augusta and Port Pirie which the Premier today indicated would cost multi-millions of dollars, include water for Roxby Downs and release 12 gigalitres of water for the environmental flows in the River Murray.

A similar desalination plant is needed for Eyre Peninsula. It is ridiculous for the government to call for reduced water usage, thereby reducing use of the existing infrastructure and their profits. Despite the Premier saying that he wants to treble South Australia's exports by 2010, limiting the water supply can only reduce the potential for development of business and industry and the associated jobs that go with expansion.

I have been exploring with private industry the provision of a large-scale plant to desalinate water for most of Eyre Peninsula. Small units, such as that at Nundroo vineyard, would be suitable for small communities such as Port Kenny and Venus Bay, which are not connected to the existing pipeline. Unfortunately, the short-sightedness of the government and SA Water has not encouraged participation by anyone who has shown interest.

Time expired.

THE FUTURE OF SUCCESS

Mr HANNA (Mitchell): Today, I draw the attention of members of parliament and South Australians to the work and thoughts of Mr Robert Reich, the former United States

secretary of labor who served in the Clinton administration. Today he is in Sydney delivering a public lecture. He is the author of a book entitled, *The Future of Success*. There is an excellent article about his thoughts by Helen Trinca in *The Financial Review* of 27 November.

I make my comments in the context of the Australian political system, which has evolved from the old conservative versus labor paradigm which, in turn, reflected the polarity of the Cold War. That paradigm was based on century-old perceptions of class, whereby there was seen to be an aristocracy and a working class, each with political parties to represent their interests. Those days have gone and, as I sit in the parliament today, I see on the government benches a party which I would call a conservative party and on the opposition benches a party which I would call a neo-Liberal Party.

By 'neo-Liberal', I mean that there is a tendency to go back to 19th century levels of regulation of both business and public morality; that is, a laissez faire attitude in relation to business and strict Victorian prudery in relation to public morality. I know those generalities do not suit every member on either side, and I apologise because generalities always rope in people in an unintended way. But, essentially, that is what we have. Of course, in the federal parliament the situation is reversed: we have a conservative opposition and a neo-Liberal government, which is now destined to dismantle large parts of the industrial relations system—

Mr Brokenshire interjecting:

The ACTING SPEAKER (Mr Snelling): Order!

Mr HANNA: —that we have enjoyed for the past 100 years. Another aspect of the present Australian political system that is relevant is the advent of Family First, a supposedly Christian party—certainly an Assemblies of God party. From the point of view of the neo-Liberal hardheads in politics, Family First performs the useful role of taking ALP primary votes and funnelling them, via preferences, to the Liberals, so that traditional Labor working-class votes are transferred to those who implement a neo-Liberal philosophy. The federal seat of Makin is a good example. Under this paradigm, the working class end up voting against their own material interests, for reasons manufactured by those on the other side.

The author and thinker to whom I have referred, Mr Reich, in his book, *The Future of Success*, speaks of this pursuit of success in materialistic Western societies as leading us to dark days ahead. He said:

> It is more profound than work-life balance and it goes to the very nature of why we are put on this earth. . . the yearning for spiritual life. . . more certainty emerges from an economy that puts everyone into a state of uncertainty.

Those reflections on economic and family life in America, I suggest, are just as valid here. He also said:

> A pure free-market view would have to conclude that anything that is provided by corporations to willing buyers is perfectly fine and dandy. . . So logically anyone who is deeply offended and concerned by pornography is really criticising irresponsibility and arguing that corporations need to be more socially responsible . . . Hollering about pornography and movies and television—all of that is not really the core of the problem.

It is about the economy.

Time expired.

CONTROLLED SUBSTANCES (REPEAL OF SUNSET PROVISION) BILL

The Legislative Council agreed to the bill without any amendment.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

Consideration in committee of the Legislative Council's amendments.

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

That the Legislative Council's amendments Nos 1 to 10 be agreed to.

Motion carried.

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

That the Legislative Council's amendment No. 11 be agreed to with the following amendment:

New Schedule—Before clause 1 insert:

A1—Amendment of section 11—Functions and powers of authority

Section 11(2a)(b)—delete paragraph (b) and substitute:

(b) the maintenance of an economically viable and socially responsible gambling industry (including an economically viable and socially responsible club and hotel gaming machine industry) in this state.

This amendment relates to the objects of the IGA. Before I deal with this amendment, I announce today that the government will be increasing its contribution to the Gamblers Rehabilitation Fund by $2 million to $3.845 million per annum. I should make it clear that the current situation with regard to the Gamblers Rehabilitation Fund is that in 2004-05 the government's contribution to the GRF was $1.845 million. This amendment now guarantees the contribution of $3.845 million to the Gamblers Rehabilitation Fund. The government acknowledges, and continues to acknowledge, that it is necessary to provide services to assist problem gamblers and their families. This further contribution will again improve those services.

The gaming industry has also indicated that it will increase its commitment to reducing problem gambling by $750 000 per annum. This is an increase from $1.5 million to $2.25 million per annum. The industry should be commended for this step and for its acknowledgment of the need to increase resources in this area. Together, the contribution to services to minimise problem gambling and for rehabilitation services will be increased to over $6 million per annum.

With respect to the viability provision, which is the specific subject of this amendment, I advise the house that the amendment provides that, in performing its functions and powers, the Independent Gambling Authority must act consistently with the object of maintaining an economically viable and socially responsible gambling industry in this state. Whilst the IGA act already provided for the IGA to consider broad objects of a sustainable and responsible gambling industry, this amendment ensures that the IGA specifically considers the sustainability and viability of the hotel and club gaming machine industry as well as the gambling sector as a whole. The IGA correctly focuses on measures to address problem gambling. It will continue to have regard to the object to foster responsibility in gambling and, in particular, minimising the harm caused by gambling.

This amendment is not inconsistent with the approach introduced in this bill by the government where, now, all guidelines as well as codes of practice issued by the authority

are disallowable instruments. The provision reinforces that any decisions that affect the viability of the hotel and club gaming machine industry are appropriately considered by the parliament. Of course, this amendment does not prevent the authority from raising any matters with the government for consideration at any time. I commend the package and this amendment to the house.

Mr HANNA: I would like to ascertain the government's view in relation to the suggested amendments of the Legislative Council as well. It is pleasing to see some sort of a compromise which allows the bill to be passed by the parliament this week. I believe that the Hon. Nick Xenophon and I have done as much as we can to actually have an impact on problem gambling. It is regrettable that a number of the proposed legislative amendments which would have directly cut at problem gambling have not been accepted by the government, but I give the government credit for throwing some more money at the problem.

Motion carried.

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

That the Legislative Council's suggested amendment No. 1 be agreed to.

This is the issue about commission going into the Gamblers Rehabilitation Fund after the 3 000 reduction in the number of machines has been achieved. The government has announced that that is where the commission will be going, and the suggested amendment of the Legislative Council is for that to be put into the legislation. We have no problems with that suggestion.

Motion carried.

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

That the Legislative Council's suggested amendments Nos 2 and 3 be disagreed to.

And I move the following amendments in lieu thereof:

New clause—

After clause 38 insert:

38A—Amendment of section 72A—Gaming tax

(1) Section 72A(4)—After paragraph (b) insert:

(ba) as to $3.845 million—into the Gamblers Rehabilitation Fund established under this part;

(2) Section 72A(5)—After '(b)' insert ',(ba)'.

New clause—

After clause 39 insert:

39A—Insertion of section 73BA

After section 73B insert:

73BA—Gamblers Rehabilitation Fund

(1) The Gamblers Rehabilitation Fund established.

(2) The fund will be kept at the Treasury.

(3) The Minister for Families and Communities will invite contributions to the fund from stakeholders in the gambling industry.

(4) The money paid into the fund under this part will from time to time be applied by the Minister for Families and Communities towards programs for all related to minimising problem gambling for rehabilitating problem gamblers.

As I outlined in my previous contribution when I foreshadowed that the government has announced that we will commit an additional $2 million increase in funding for the Gamblers Rehabilitation Fund, these amendments provide the new funding level at $3.845 million and establish the Gamblers Rehabilitation Fund in the act. We think this is a positive step in the right direction. Since coming to government, we have committed additional funds to the Gamblers Rehabilitation Fund. We have listened to the arguments that have been made about additional revenue to be added on top of what the government has already committed to. We think there are sound arguments for that, and we move the amendment accordingly.

In all probability, this may well be my last opportunity to speak on this bill. What I think we can be confident about is that, provided the Legislative Council supports us, we will have delivered on 3 000 machines being taken out of the system. No other state has taken on this issue. The community wanted fewer machines, and the government is delivering.

Mr BROKENSHIRE: I support this amendment and the previous amendments, and this will be my last contribution to this debate. I acknowledge the great work of the staff who have helped in a bipartisan and, as always, professional way. They have assisted what has been a difficult debate. We have already debated this bill for 60 hours, or something like that, and it has been done to death, frankly. However, there are two or three things I want to say.

First, whilst the minister did the best he could to try to bat for the government and the Premier, the fact of the matter is, as we said at the beginning, that the bill is fundamentally flawed and will not achieve an outcome that will have a result for problem gamblers, and that has been confirmed just now by the minister. It is more about the Premier's being able to go to the next election and to his colleagues in other states whenever he wants, to beat his chest and say that he is the first premier to reduce poker machine numbers. That is really what this bill is about.

A lot of good work has been done by all members who have contributed in an effort to get in some sensible amendments, and I think the one win is the fact that we are seeing increased funding going into the Gamblers' Rehabilitation Fund. I am on the public record since not long after we lost office raising the fact that there needed to be more money going to that fund because the revenue stream increased at a rapid rate of knots. The hotel industry and the licensed clubs (but particularly the hotel industry, through the AHA) have shown a commitment to trying to address problem gambling—in my opinion, anyway—and actually had a package of measures that could have made a real difference to problem gamblers, but they were overlooked. However, we will now see about $6 million in a global amount being spent in helping problem gamblers. The government's $2 million contribution is less than two days' revenue given that it earns approximately $1.1 million in taxation every day, 365 days a year, and a lot of that money comes from problem gamblers. A lot more work needs to be done, not just with problem gamblers in gaming but also with problem gamblers involved in any other product.

Problem gambling will not go away: it is a matter that needs constant attention. I still have a concern that I had when we were in government and I was the minister for gambling (and this is a personal opinion, not a party position), and that is that the Minister for Gambling, who is responsible for trying to manage the industry and codes of practice and initiatives to prevent problem gambling, has one arm tied behind his back when he goes to cabinet because, when it comes to the Gamblers' Rehabilitation Fund and other initiatives for the prevention of gambling, the fact of the matter is that that minister does not have the final say—or, indeed, a lot of say—in that it belongs to another portfolio area.

The Hon. I.P. LEWIS: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

Mr BROKENSHIRE: As I was indicating, Mr Chairman, the fact of the matter is that there will need to be a concerted effort to address that small but, sadly, devastating percentage of South Australians who get caught up in problem gambling, and the measures that we have been debating with respect to a straight cut in poker machine numbers is not the way to address the concerns. But there has been wisdom in the parliament in the form of that money that will be provided now—not by the gracious proactivity of the Labor government, I might add, but by democracy, namely, the parliament of South Australia.

The other thing I want to put on the public record is that this cut will take quite a long time to come through, so anybody who believes we will see a reduction of 3 000 machines in the next 12 months or couple of years has been deluded by the government, and I suggest that it will be several years before we see the cut. But, I hope there is some stability for the industry as well, because the other point I want to raise is that there is a minimum of 24 000 jobs involved, plus the value-added components of that; and, unless we want to lose 24 000 jobs (which I am sure no-one in the parliament wants), we have to get more creative and innovative, and implement the initiatives already available to get to the root cause of problem gambling instead of playing politics for front page stories and, as I said, for the Premier to be able to say he is the first to cut machine numbers. What I would like to see the Premier and parliament doing is putting real initiatives forward to address problem gambling.

Mr MEIER: I was interested in the minister's comments when this amendment was put before us: he said that the government will have achieved its stated aim of reducing the number of poker machines by 3 000. It is my understanding that the exemption of the clubs, which I opposed in this house, was actually agreed to in another place with the support of the No Pokies Party. This seems somewhat hypocritical on their part, but they have to justify that they wanted to retain the full number of poker machines in clubs. I therefore ask the minister: if the clubs are exempted (which they were originally in the formula), how will the government be able to reduce the number of poker machines by 3 000? Will the hotels lose more than they were originally scheduled to lose?

The Hon. M.J. WRIGHT: Yes, that is the case. There is no revelation there; that has been on the public record ever since the house, in its wisdom, decided to exempt the clubs. As I pointed out at the time, the hotels will have a greater burden in the process that has been put in place so that the 3 000 will still be achieved, but the 3 000 will come from hotels. As the member knows, I brought forward legislation which included clubs. However, parliament, in its wisdom, decided to exempt the clubs.

Mr MEIER: A lot of this debate was held in the early hours of the morning and, whilst I think I was present for most of it, I may have missed some things there. Does that mean that the formula regarding what establishments that have up to 40, up to 30, and up to 20 lose changed during the bill?

The Hon. M.J. WRIGHT: The formula has not changed.

The Hon. I.P. LEWIS: The remarks I want to make in the first instance are about the process we are following. We resorted to the publication of a green sheet so that honourable members would know what the order of business would be on the day, rather than that which appears on the *Notice Paper*. That would enable members, especially those of us who are Independent, to schedule whatever it is we have to do, apart from participate in debate, by making judgments about the priorities we would ascribe to the utilisation of that time. I find it particularly galling then that, even though this is produced at the government's behest as late as 1.30 p.m. on the day, we nonetheless see a deceit being engaged in by the government and members of the opposition, who are quite happy to see this legislation pass because they are in the pockets of the gaming industry.

This is a conscience matter, and honourable members ought to be able to rely on what the government's leader of business tells the house is going to be the order of business in the chamber. It is not only a gross deceit: it is also an outrageous disgrace that that should be rearranged—without any remark whatever being provided to anyone about it—just at the last minute on the whim of the minister and members of the opposition, who seek to put the measure through without due consideration.

We were supposed to be considering the Teachers Registration and Standards Bill, and there will be quite a bit of debate on that matter before it is finished. That is my first point, and I can tell you that my temperature on that point is very high, Mr Chairman.

My second point is that I find then, because of that deceit, that I have missed the opportunity to participate in debate on many of the proposed amendments which have come from the Legislative Council. If that is the level to which the government wants to stoop, then it ought not to expect too much more cooperation from me—especially given the commitments it made in February 2002 about the conduct of business in this place. It may well be that too many ministers have listened to too many spin doctors as to how to avoid getting exposure and debate on matters which they find unpleasant and controversial but for which they want passage. It may well be that they have conspired with the opposition to do that, but it is just not good enough. Frankly, sir, I do not even know what clause is before the committee. However, I would like to know so that I can contribute to that, at least, in a way which might be relevant.

The CHAIRMAN: I understand the point that the member for Hammond has made, and the chair is prepared to be somewhat tolerant, although the understanding here is that we are all meant to know what is happening all the time. I have some sympathy with his position, and if the member for Hammond wished to make some brief comments about the amendments—either 1 to 11 as well as the suggested amendments—the chair would entertain that, provided that it is—

The Hon. I.P. LEWIS: I expected to have time to see them during the dinner break. I have some business that I was intending to attend to with respect to refugees who have moved out of one African country into another in recent times and who have sought my support. However, I will now be denied the opportunity of doing that before my staff goes. Damn it, we have had the debate on foot with the government's own response to the proposed amendments from the Legislative Council, not even in the chamber, so a deal has obviously been done between members of the opposition and members of the government, particularly the minister, against the interests and the spirit of the conscience matter. I do not even know what clause we are supposed to be debating.

I make the observation about the provisions which have been proposed by the Legislative Council that, whilst they mean well, they achieve nothing. Hypothecated funds merely mean that the amount of money that is to be spent on that cause or purpose, or whatever term you want to use to

describe the purpose, are simply reduced as to how much will be appropriated from general revenue. They do not really increase the amount at all; it is like hypothecated funds for the Hospital Fund where moneys from particular sources go into that fund, and whatever else is needed over and above that is simply brought in from general revenue. That is hypocritical; it is political claptrap and nonsense. The intention is to deceive the public into believing that some greater good will be derived from allowing the government to engage in that kind of activity. So I do not share the view of those members in the Legislative Council who have put this proposition before our chamber that we need to have a hypothecated fund called the Gamblers Rehabilitation Fund, whether or not their proposal to move it is constitutional.

That is another question altogether—one, of course, which enables the council to hold the view that it, member by member, can exercise more power than any one member in this place, member by member, because no member in this place can move an amendment to legislation to establish a fund called the Gamblers Rehabilitation Fund—the government alone can do that. Yet any member of the Legislative Council not a minister may do so in the opinion of the Legislative Council. The government has now subverted the constitution in that regard by allowing these matters, coming as so-called suggested amendments from the Legislative Council, to be debated in order to get better publicity, greater spin and more favourable consideration of the position it is taking on the matter.

Therefore, I have some difficulty accepting that the government has been sincere about its statement that members of the government will be able to participate in this debate as though it were a conscience vote. I will bet that those clauses which are to be debated by people who have strong feelings about them have already had considerable debate and approval from caucus as to whether they will be allowed to participate in the debate on that basis. What we therefore find is that we are delivered up with a fait accompli about things like 'economically viable' and 'socially responsible' gambling. Why the hell it has to be economically viable is beyond me. There is no requirement for wheelwrights, for example, to be guaranteed an income for making wheels, and there is no requirement in law requiring milkies, as we know them, to be maintained as a viable service in the community. They are simply left to the market forces after the government takes such taxes and charges as it considers appropriate to wheels made by wheelwrights and milk being distributed by milk vendors under licence.

For the government and members of the opposition to say that it is okay to pass in legislation a requirement that gambling be viable is bloody immoral. They are saying that we have to have gambling, that it ought to be made profitable regardless, and that nothing should be done by the regulator that would cause it to become unprofitable. That is the anathema of the views that I have, yet I am denied a vote on that nonsensical proposition. I take strong exception to a requirement being placed in law that gambling be made viable. Why does a bloody bookmaker have to be a bookmaker? No more reason than somebody who wants to be a lawn mower or a tree doctor or someone who cleans up backyards.

I do not expect honourable members to agree with my views about what is good and bad with respect to gambling, but I do expect them to understand that what we have now done is make it compulsory in law for gambling to be viable. What sort of conscience do honourable members have in that regard? Certainly there are none that I have heard anyone speaking about. Equally, why is it then that the government seeks to reduce the amount of money from an unlimited amount by putting a cap on it to $3.845 million for gambler rehabilitation? If the requirement to rehabilitate people's conduct after they have become addicted to gambling is for more than that amount of money, then what it is saying is that we will prioritise it to the extent that no more than that can be spent.

That means, of course, that given that gambling has to be profitable, if the amount which would otherwise have been put aside for the purposes of treating gambling addiction is not sufficient to do so the problem will continue according to the amount by which we fail to provide adequate sums. If the quantity of money that is being gambled were to produce, in percentage terms, a number of problem gamblers pro rata per million being gambled—and that is a reasonable conclusion that some could make; whether valid or not it is, nonetheless, a reasonable conclusion—then we are saying that, if gambling takes hold, we are not going to treat anywhere near adequately anyone who is afflicted by it over and above the amount of $3.845 million—sad that.

It is insincere on the part of the government to cap the fund at that figure. No reason for that figure is given. It is just plucked out of the air, one assumes. I do not understand why it is that we only need $3.845 million out of something like $400 million, $500 million or $600 million, or however many millions are gambled, and it is getting up and going higher every year. And I have no idea, either, whether that amount is indexed. That is not explained. I do not believe, then, that a conscience vote with adequate debate of the implications of the proposed changes is going to be effectively undertaken by the members in the chamber.

They have all decided to sign off, oblige the Legislative Council and allow them to go home early, and enable this house to get on with passing the legislation the government wants on other things and go to Christmas. That is hardly the way to treat those kids who are going to suffer in consequence of being dependent upon someone who requires rehabilitation after becoming addicted to gambling. It is hardly the sort of approach I would have thought appropriate in dealing with other problems that arise in society, quite apart from the gambling rehabilitation needs of those who find themselves addicted to gambling. I just wish there was some rigour in what the minister has done and what the Treasurer has decided is going to be the cash cow for the government without limitation.

It is as if it does not matter how much milk you expect from your herd, you need to spend only $2 a year on veterinary services. If more cows get sick than $2 can fix, that is too bad: you just reduce the amount of medicine you give to each cow. Clearly, what happens is that you end up with no herd. In this case, the analogy is relevant in the context that there will be more people less well cared for once they have become addicted when the services that can be provided for them from that money have used it all up in the process of service delivery. It also fails, both within the principal act and in the proposed amendments and amendments to the amendments, to address the problem for the dependants who are afflicted in consequence of the addiction of the person upon whom they depend.

There is no requirement in law for the money to go to look after those dependants, whether they are children or other adults who are incapable of caring for themselves, whose money may have been misappropriated, if they are in some

way intellectually disabled as a consequence of a motor car accident and their lump sum payment is put into the care of a family member who then goes off, gets addicted to gambling, takes the money that is being paid to them and sinks it through the poker machines or whatever else they choose to spend it on. The person who suffers is the person whose money has been spent by that other adult on whom, maybe from the courts, certainly somewhere in the law, the injured intellectually disabled person was required to depend. That dependency is then defeated.

Sure, it is a crime, but it does not address the needs of the dependent person who was catered for through the lump sum payment that has now been squandered. That is not even addressed in here, and all members who have been part of dealing with these amendments and with the principal act and who failed to deal with that should hang their heads in shame. More than that, I wonder why we do not provide funds from that same fund, the so-called Gamblers Rehabilitation Fund—which ought not to be called that: 'mitigation' would be a better word—so that we can then also provide not just for the care of the person but for those dependent on the person and the arrangements that will need to be made to deal with it. They are not going to get restoration of their capital and the kids are not going to get fed, but they need to be.

If it were 'mitigation', it would enable those children, before they go to school, to get their breakfast and, before they leave for school, to be properly dressed, whereas, as it stands at the present time, the Gamblers Rehabilitation Fund, as the name suggests, is merely to fix the problem of the person who has become addicted. It has nothing to do with dealing with the social problem that is otherwise caused as a consequence of that addiction. And it ought to. All in all, I say, a curse on anyone who has taken this so lightly, so expeditiously, for the sake of convenience, and ignored what I regard as being an appropriate regard for conscience in the measure and the public need that should arise when contemplating what we really should be addressing in doing it in this way.

I cannot help but be distressed by it, especially given what I had to say during the last parliament on all those questions. No-one has learned anything other than that they can round up the numbers, get the measure through and get on with life and to hell with the consequences.

Motion carried.

STATUTES AMENDMENT (LEGAL ASSISTANCE COSTS) BILL

Adjourned debate on second reading.

(Continued from 15 September. Page 46.)

Ms CHAPMAN (Bragg): This bill seeks to amend the Criminal Law (Legal Representation) Act 2001 and the Legal Services Commission Act 1977, and to repeal a provision in the Legal Services Commission (Miscellaneous) Amendment Act 2002. The Attorney's second reading explanation clearly sets out the appropriateness of these amendments and their urgency, and the opposition supports them.

I note that, rather optimistically, in his second reading explanation the Attorney-General referred to his parliamentary colleague the Hon. Martyn Evans, who was then the member for Bonython, as the soon-to-be member for Wakefield. It would appear that history now tells a different story, as it seems that that member has been consigned to retirement, at least at a political level. The opposition supports this bill and understands why its swift passage is required for its conclusion.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

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

Page 3—

Line 2—Delete 'Subject to subsection (2), this' and substitute 'This'.

Line 4—Delete subclause (2).

Amendments carried; clause as amended passed.

Remaining clauses (3 to 20) passed.

Schedule 1.

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

Page 8—Delete schedule 1.

As my first two amendments have been carried, there is now no need for this schedule, so I move that it be deleted.

Amendment carried; schedule deleted.

Title.

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

Delete '; and to make a related amendment to the Legal Services Commission (Miscellaneous) Amendment Act 2002'.

My first three amendments deleted related amendments to the Legal Services Commission (Miscellaneous) Act 2002. The long title no longer needs to refer to that act, so I propose that the reference to it in the long title be deleted.

Amendment carried: title as amended passed.

Bill reported with amendments.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 563.)

The Hon. R.B. SUCH (Fisher): I wish to make a brief contribution in relation to this bill. As the Attorney would know—and I have corresponded with him in relation to this matter—I support what he and the government are doing. I make quite clear that I have no time for anyone who preys on children, who acts as a sexual predator in any way, shape or form. As a community, our first responsibility is to protect innocent children from those who have evil intent. I have some points that I would like to canvass, but I make quite clear that I support the general principles of the bill and what it seeks to do.

There are a couple of issues that have concerned me for a while. The very term 'child pornography' I do not believe necessarily conveys the seriousness of what some people do to children. When people talk about pornography, they often think of what is crudely called girlie magazines and adults romping around doing various things. However, 'child pornography' does not really convey what is often the case, that is, child sexual assault, the rape of children, buggery, and all of those sorts of things. I am not suggesting that it is easy to come up with a term that would be accepted throughout Australia, but in my correspondence with the Attorney I have indicated that I would prefer a term which conveys what I think is the very serious offending against children involving, as I say, rape, and so on, that I do not believe the term 'child pornography' necessarily conveys adequately. So I put that on the record. If we can come up with a more appropriate

term to describe that abuse of children in its very serious form then I will be happy about that.

Another issue that concerns me is that throughout Australia we do not have a consistent approach or consistent definitions for what is regarded as child pornography. Some jurisdictions require there to be a portrayal or a depiction of actual sexual activity involving children; some do not. Some rely on the Film and Literature Classification Board, that classifies films and literature. Some jurisdictions rely on the board as a guide to whether or not something is pornographic. When my office spoke to senior police here about this issue, there was, I guess, an initial difficulty that some police had in defining the term that they were seeking to enforce. Clearly, this bill will make it easier. A police officer made reference to the United Nations conventions on the rights of the child, the protection of children, and so on. The point I make is that throughout Australia there is some variance in terms of the different jurisdictions and how they deal with this issue. I think it would be good if the various attorneys throughout Australia could simplify, clarify and define precisely this evil behaviour so that it can be dealt with more appropriately. I gather that the attorneys are working towards that in a range of areas, not just simply in terms of child pornography, child sexual assault and related matters.

There is also the issue of the age of those involved. We are all well aware that with the use of clever makeup and other aids you can make somebody look younger or look older. There is an issue about the depiction of someone and relying on what is portrayed in terms of their age. That is another aspect and it highlights a fundamental point, that in all of these issues there is a degree of subjectivity, and that will always be true in regard to the law of the land, particularly when you get into matters such as this bill. I believe it is important that we try to minimise the degree of subjectivity so that the community knows precisely what is involved and what is, in effect, right or wrong. We have had the general dictum that ignorance is no excuse, but I think it is important that people know quite clearly what the law means and understand quite clearly what is appropriate and what is inappropriate behaviour.

We know that customs and attitudes change over time, and that is very much the case when it comes down to paedophile activity, or I think, the Attorney prefers the term pederast. In my earlier days as an academic it was generally the view of a lot of specialist people in this field, who had greater knowledge about it than I had then or have now, that it was an illness and that people who were engaged in paedophilia or who were pederasts were socially inadequate and could therefore not form adult relationships, and therefore resorted to preying on children, either directly or indirectly, whether it be photographic images or actual sexual activity. Society seems to have changed and it is now regarded as a straight-out criminal activity, with no pity for the paedophile or the pederast; and it the right of society to reflect its concerns in the way it feels most appropriate.

However, it highlights one issue in terms of this matter, and it is not canvassed specifically in this bill, and that is whether the people who undertake child pornography, who participate in it, create it or engage in any sexual activity involving children, are classified as ill. Some people argue strongly that it is an illness. That raises the issue about whether you punish in the conventional sense or you try to treat those people. I would argue that you need to do both: you have to send a signal that the behaviour is inappropriate but also put an emphasis on treatment. I am not saying that the government is sitting back waiting for something to happen, but I urge the government to actively encourage people who know or believe that they have a tendency to prey on children in a sexual way to seek help, and for the government to make it easier for them to get help.

I would sooner see that happen than have children violated one way or another. I would sooner see preventative programs in place, whereby people who have these tendencies can actually seek and get help before they go down the path of inflicting harm on some innocent child. I make that plea to the Attorney—although it is probably an issue that comes more within the province of the Minister for Families and Communities—to establish some phone number, some confidential situation. I am not saying we should excuse people who have done evil acts and broken the law: what I am talking about is people who may feel that there is a tendency emerging within them, that they have this inclination to prey on children, that they would get help and that it would be provided on a confidential basis, on an urgent basis, by the government.

I am not suggesting it in any way for those who have committed acts of sexual abuse against children. I think they should be dealt with in the normal course of events, accompanied by a rehabilitation or treatment program. I have been reassured by the Attorney as a result of my correspondence that there should not be any impact on normal, healthy, family activity as a result of this measure. We see already in society that there is a lot of pressure not just on men but throughout society, involving people in areas of sports coaching, normal interaction between an uncle and niece, and so on, and we need to make sure that we do not create a situation where we stifle normal affection, appropriate physical interaction between males and females of any age. Members know what I am talking about.

I am very committed to dealing with sexual predators but not in creating a situation where fathers, for example, feel uncomfortable if their young daughter wants to give them a hug, and that sort of activity. People have expressed concern to me as to whether this sort of legislation will make it difficult for their grandchildren or their own little kids to hop into bed with mum and dad on a Sunday morning. I do not believe it will, but it is important that we do not create in the minds of decent parents and normal family members that somehow we are trying to stop that normal, healthy interaction and being able to give your kids a hug, and so on.

An issue was put to me by a member of parliament, and I will not name the person because it is not necessary, who said that a friend of hers sent some photographs of their family, presumably little kids naked, electronically through to someone in another state, and that was intercepted by the police. That is the sort of situation where we have to be careful that a photograph of babies in the bath, which is often a normal, healthy activity in a family, not with any evil intent, not intended to provide sexual gratification, that we do not stop that activity that has gone on for as long as photographic technology has been available. I bet nearly everyone in here has a photo of one of their kids or maybe of themselves sitting in a bath or down at the beach at Seacliff, or somewhere, and we do not want to see that stopped simply because there are some evil people in the community who want to take advantage of kids.

I do not think we should let the evil tail wag the good dog. Likewise, just to come to the final point, I have a concern that we could end up with some false accusations, a type of McCarthyism, if you like. Members might say that this is

farfetched, but I was told recently of a case where there had been a break-up in a relationship and one of the partners sent pornographic material relating to children through the computer to the home of their former partner and then rang the police and said, 'If you go round to my former partner's place you'll find that person's accessing child pornography.' I am not a computer expert and I have asked people who are some of the issues relating to that, but what I am concerned about is that people who also have evil intent could in a sense create an entrapment of those who are acting honourably. The Attorney ensures me that my concerns are ill founded and they will not materialise. I trust that that is the case.

I had a situation in my electorate of someone who was a teacher with no evidence of ever doing anything with children in an inappropriate way, but someone suggested to the police that there were some videos at this person's house. This person is naive legally. The police came around and took these videos. When the case went to court, the lawyer said, 'Plead guilty. Nothing will happen.' That person lost their job as a deputy principal. Their life is completely ruined. He said, 'I had never seen some of this material before,' but when the police took away these things he signed that they had taken 21 items. When you go to court and especially if you plead guilty, you are gone. The lawyer, for that privilege, charged him $8 000 to plead guilty, saying, 'Nothing will happen to you.' Well, it did. He lost his job and his whole life is ruined. He lost his super; he lost everything. I acknowledge that those situations are not going to occur often.

I welcome this measure because it is well-intended. However, I reiterate the points I made earlier: one, throughout Australia there should be a consistency in the approach and in the definitions; two, there should be less subjectivity; three, what we are talking about should be clear cut so that there is no misunderstanding about what constitutes 'child pornography'; and four, preferably in the title of the bill and the use of that term, we do not exclude the more appropriate labelling of what I would regard as being more serious than child pornography, and that is child sexual assault, child rape. We do not diminish the seriousness of the offence by labelling some of these things as child pornography when, in my view, they are far more serious than that and demand a more serious response.

I support the bill but I raise those points. The Attorney may wish to respond when he sums up. As I said at the start, we have an obligation to protect children and to ensure that they are safeguarded from those who want to take advantage of them, to prey on them and to use them for their own evil intent. I support the bill and I look forward to hearing the Attorney's response.

The Hon. D.C. KOTZ secured the adjournment of the debate.

TEACHERS REGISTRATION AND STANDARDS BILL

In committee.

(Continued from 6 December. Page 1176.)

Clause 9.

Mr HANNA: Mr Chairman, we were in the middle of debating the amendment that I moved. Is it possible for me to withdraw that amendment at this stage, or must it be decided upon?

The CHAIRMAN: You can seek leave to withdraw amendment 42(3) and then deal with 42(4).

Mr HANNA: I seek leave to withdraw amendment No. 42(3) on the basis that the member for Bragg will be putting forward an amendment which is the subject of an agreement between all parties in the chamber.

The CHAIRMAN: The member does not have to give a reason but he can if he wishes—and he has.

Leave granted; amendment withdrawn.

Ms CHAPMAN: I move:

Pages 6 and 7—
Delete subclause (1) and substitute:
(1) The Teachers Registration Board consists of 16 members appointed by the Governor of whom—
(a) 1 must be a person nominated by the Minister, who will be the presiding member of the Board; and
(b) 2 must be persons nominated by the person holding or acting in the office of Chief Executive of the Department; and
(c) 5 must be registered teachers (including at least 4 practising teachers) nominated by the Australian Education Union (S.A. Branch) after the holding of an election in accordance with the regulations; and
(d) 1 must be a person nominated by the Association of Independent Schools of South Australia Incorporated after the holding of an election in accordance with the regulations; and
(e) 1 must be a person nominated by the Catholic Education Office; and
(f) 2 must be registered teachers (including at least 1 practising teacher) nominated by the Independent Education Union (S.A. Branch) after the holding of an election in accordance with the regulations; and
(g) 1 must be a person employed in the field of teacher education nominated jointly by the universities in the State; and
(h) 1 must be a person nominated by the person holding or acting in the office of Director of Children's Services; and
(i) 1 must be a parent of a school student nominated by the Minister to represent the community interest; and
(j) 1 must be a legal practitioner nominated by the Minister; and
(k) not less than half must be registered teachers.
Page 7—Delete subclause (3).

The amendments are moved after considerable consultation with the minister and the member for Mitchell. For those who have been following the debate, both have had considerable input into how we might best serve the people of South Australia, and in particular teachers and students, in their membership of the Teachers Registration Board.

In summary, the amendment will make provision for the appointment/election of 16 members of the board. The majority of the first 14 members under this bill are consistent with the current provisions under the Education Act in that they will still be nominees of the various stakeholders and representative bodies that enjoy the privilege of nominating representatives.

Additionally, the minister will have the responsibility of appointing a legal practitioner and a parent of a school person to represent the community interest. The minister will continue to have responsibility for appointing the presiding member of the board; the Chief Executive of the Department of Education will nominate two persons; and the Director of the Office of Children's Services will nominate one person. That is not new. Essentially, there is an expansion of the board, and there is a continuation of the representative bodies having the opportunity to directly nominate either through their own election process as prescribed by regulation or directly appointed from their representative body. That is the important aspect for the opposition, which will prevail in light

of our position and that is absolutely critical in a circumstance where the minister and, effectively, her Department of Education and Children's Services, are both the employers and regulators in relation to the employment of teachers, and the standards and requirements set for their registration.

The other important aspect of this amendment, which I think is important to place on the record, is that there is an extension of the number of representatives from the teaching body itself. Firstly, there is a provision that one half of this board will be teachers and, secondly, that five of the elected representatives from the Australian Education Union (SA Branch) will be elected and an increase from one to two from the Independent Education Union (SA Branch), who are responsible for the membership in the non-government school sectors.

The other aspect here is that, in recognition of the importance of teachers being on this board, and the importance of their having a contemporary understanding of schools and the standards required, the overwhelming majority must be practising—that is, undertaking teaching duties in a school site at the time of their election. So, four of the five education union representatives must be practising and one of the two representatives from the Independent Education Union must be practising, and I think that that is an important consideration, and one which both the government and the opposition agree ought to be recognised in the act.

It seems likely, as has been the case to date, that other representatives, whether they be persons nominated by the departments or, indeed, nominated by the Independent Schools Association or the Catholic Education Office, could well be registered teachers and, indeed, may be practising teachers. So, this will be a board that is largely independent of appointment by the minister, for the reasons explained, and also will have a healthy share of the professional people who they purport to set the standards and qualifications for, namely the teaching profession in South Australia. I commend the amendment to the house.

Mr HANNA: I am very pleased to speak to this amendment. It represents a true consensus between the Greens, Labor and Liberal in this chamber. It is a compromise, and I am glad that the minister has graciously agreed to revert to the system of the relevant bodies including the unions nominating those who are to be members of the Teachers Registration Board, rather than going through ministerial nomination. I am pleased that the suggestion I made for the community representative to be a parent of a school student has been taken up by other parties. I am a little disappointed that we now have a Teachers Registration Board where we have seven out of 16 nominated by the two respective unions. However, I am very pleased to note that we have struck a formula, now included in the relevant section, which stipulates that not less than half of the total board must be registered teachers. So, we are maintaining the status quo. I say that because the existing board has effectively seven teachers and seven others, and in the board to be appointed once this bill comes into effect not less than half the board must registered teachers.

There was also consensus that most of those teachers should be practising teachers, but recognising the current practice of the relevant unions to occasionally appoint teachers who are registered but not actually practising it was decided that we should set a minimum number of practising teachers to be elected among their number, but that it not be compulsory for all of the teachers nominated by the unions after a due election process to be actually practising. So, we end up with a board of 16. There will be a substantial component of practising teachers nominated after a due election process by the relevant unions, covering both the government sector and the non-government sector, and I believe that this is a genuine improvement on the original model proposed in the government bill, and one which all three parties represented in this place can live with comfortably.

Mr SCALZI: I will not hold up the committee. I just want to commend the member for Mitchell for the amendment and the compromise that has been reached, as he said, between the government, the Liberals and the Greens. I am pleased that there is a parent to represent the community interest and a lawyer, and subcommittees.

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

Mr SCALZI: As I was saying before the dinner break, I commend the member for Mitchell for this amendment. I also commend the minister and member for Bragg for the compromise. There is hope for us in that in an education bill we can discuss matters sensibly and arrive at this amendment. I commend this amendment in relation to parent representation of community interests. The community wants to know that parents are represented on boards such as the Teachers Registration Board. A legal practitioner nominated by the minister will be on the subcommittee. It is important in relation to the areas with which we are dealing that there is legal representation. I believe this is a better outcome than that with which we started. That is what it should be about. I am pleased that a sensible solution has been found in answer to the concerns of the various stakeholders.

Amendments carried; clause as amended passed.

Clause 10.

Ms CHAPMAN: This clause provides for the terms and conditions of membership of the board, and what I describe as the usual conditions for removal. There is no controversy in relation to that. I have been provided with consequential amendments, and I refer, in particular, to page 28, schedule 2, clause 1(7), which provides:

> If in the opinion of the minister, a particular interest or office of a member. . . is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of the member, the minister may require the member either to divest himself or herself of the interest or office or to resign from the board. . .

Is that provision currently in the act?

The Hon. J.D. LOMAX-SMITH: I have a complex answer to this question. It will expire on the commencement of section 6H of the Public Sector Management Act 1995 as inserted by the Statutes Amendment (Honesty and Accountability in Government) Act 2003. This is an interim measure that relates to that other act, but, if that section has come into operation before this clause commences, it will be taken not to have been enacted.

Ms CHAPMAN: If the honesty and accountability legislation comes into effect, will it provide for you as minister to have this determination power as to what is 'of such significance'?

The Hon. J.D. LOMAX-SMITH: Yes.

Clause passed.

Clauses 11 to 19 passed.

Clause 20.

Ms CHAPMAN: This is a principal clause in this bill, which requires that a person who undertakes employment as

a teacher, principal or director for a fee, or claims or pretends to be a registered teacher, will commit an offence if they are not registered. That is an important obligation on which we do not take issue in relation to the obligation of the teacher or such person who might masquerade in that role.

Subclause (2), on a reciprocal basis, provides a penalty of $10 000—double—for the employee. Nevertheless, the employer also commits an offence if they employ a person who is not registered in that category. I do not take issue with that. Subclause (3) appears to substantially expand the obligation of an employer. It provides:

> A person must not employ another person in the course of a business to provide primary or secondary education unless the other person is a registered teacher.
>
> Maximum penalty: $10 000.

To what does that apply?

The Hon. J.D. LOMAX-SMITH: Subclause (3) was inserted at the request of the Teachers Registration Board, Catholic Education and the Independent Schools Association. The reason for that was that there was concern that it was necessary to capture all employment arrangements, including circumstances where a teacher is employed as a contractor by the school rather than as an employee. There are some circumstances in which I understand the private sector recognises that that occurs. This was done entirely at their request, and I tried to be supportive of their needs.

Ms CHAPMAN: It is fair to say that I have received some representation which represents the concern about the extent of this clause. If I put this to you by way of exclusion you may be able to clarify it. In an independent school, which utilises the services of a parent or any other person who volunteers to provide a service of, for example, reading to students, music tuition or sports coaching or the like, which forms part of the provision of primary and secondary education, will those people be caught by this clause?

The Hon. J.D. LOMAX-SMITH: The volunteer situation will never be caught under this provision. I suspect that the most likely people to be caught might well be teachers from employment agencies. There are employment agencies for teachers from which you can employ a casual teacher. They will be caught under this provision, but volunteers will not.

Ms CHAPMAN: Subclause (1) provides for those who have an obligation not to undertake teaching unless they are registered, including those who are employed for a fee or other consideration. A parent may be employed in the provision of services in the canteen, or for reading or for sport in consideration of a reduction in the fees that they are obliged to pay. Under any ordinary interpretation, that would be described as a consideration for services provided. Is the minister able to provide an assurance that in those circumstances that would not prohibit that person from providing that service?

The Hon. J.D. LOMAX-SMITH: They would not be caught in a provision that required us to register someone providing primary or secondary education because they would not be providing that according to the definitions that we would use. The Teachers Registration Board would make a determination about that categorisation, but they would not be caught under this clause.

Ms CHAPMAN: I am unable to see in clause 3 (Interpretation) any definition of 'primary and secondary education'. Is there such a definition and, if so, where is it?

The Hon. J.D. LOMAX-SMITH: There is no such definition now or in the previous act of 'primary and secondary education'. The board will determine whether an individual or class of persons is delivering primary or secondary education, and if they are working in the canteen I am sure that would not be thought of as primary or secondary education.

Ms CHAPMAN: It is probably best to exclude the canteen, but let us go back to the provision of sports coaching, reading assistance in a classroom, music tuition or some other service to the school such as advising students on career counselling—that type of thing—which a person is introduced into the school to provide. Is the minister able to give an assurance that, in terms of primary and secondary education, those people would not be able to be excluded at the discretion of the board?

The Hon. J.D. LOMAX-SMITH: As I understand it, the terms 'fee' or 'consideration' are defined. 'Consideration' is defined as any reciprocal promise. A reciprocal promise could be some sort of an ancillary activity, but it would not be classified as primary or secondary education if it were not teaching and if the person about whom you are inquiring had the care and control of a group of children for educational purposes. In any case, the board would determine what a teacher was in an individual case.

Ms CHAPMAN: I think that is the point, minister. You are saying that, if this person is involved in the school in the categories to which I have referred and is in the presence of or working in conjunction with a qualified teacher at the school, they would not be caught by this provision. However, I think you would appreciate that there are circumstances in the school environment where after-school-hours coaching of a sports group might be undertaken or there might be Saturday morning duties in relation to a sporting activity or unsupervised assistance with homework, etc. that are not provided in the presence of a qualified teacher. I would like the minister's assurance that in those circumstances someone who is a volunteer would not be caught. I think the minister said that because they are a volunteer they would not be caught, even though they might be providing that service. But, if they are receiving a consideration—that is, an in-kind fee—they would not be caught.

The Hon. J.D. LOMAX-SMITH: The issue of a volunteer or paid person carrying out a role other than a teacher—that is, the teachers' aids (SSOs); or ESOs, I think they are called in the Catholic sector (educational service officers), and all those sorts of para-teaching professions—would not be captured by the Teachers Registration Board because they are not teachers. They would not be registered by the board because they would not have fulfilled the four years of training, so they could not be registered as a teacher and could not be caught in those circumstances. The definition of teaching relates to both the person's qualifications and the curriculum they are teaching, and a non-teacher could not be registered or caught by these provisions.

The CHAIRMAN: In relation to clause 20(1)(b) where it says 'a person must not. . . offer to do so', I guess there will be many situations in which someone has not actually become registered but is seeking employment. Would that subclause capture someone who has expressed an interest and is in the process of seeking to become registered but has not actually become registered? It says if you offer to do so (that is, to be a teacher), you are in breach of the act. I guess if you were seeking employment you are offering to do it, but it is subject ultimately to your becoming registered.

The Hon. J.D. LOMAX-SMITH: I think you might seek employment but you would have to be registered. One of the advantages of this bill, as opposed to the previous situation,

was that previously you were either in or out. It was like being pregnant: you were entirely pregnant or not pregnant. You were either totally registered or not registered. The provisions of this bill allow conditional registration so that, if someone perhaps did not fulfil the requirements for full registration, the TRB could choose to give a conditional registration with conditions on what the person did, but also on how they would undergo further training or experience that would then make it possible for them to become fully registered. So, there is an additional assistance to seeking employment. In fact, this is apparently a direct copy from previously—the offer 'to do' is the same in the current legislation.

The CHAIRMAN: So, in regard to people coming out of university seeking their first job, I do not know whether there is any time constraint within which the board has to respond to their application, but I can see a bit of a log jam if someone coming out of university wants to teach and is going to apply to be registered. There could well be quite a time before they could actually be registered or considered for registration, and certainly for it to be done properly in terms of a check. Does that suggest that, say, someone qualifying in December may not actually be able to be engaged as a teacher until well into the next year?

The Hon. J.D. LOMAX-SMITH: I think it will be quite possible to be recruited before that point. I understand that the examinations and results are in November. They would apply for provisional registration which would be dependent, as it is now, on their completing and getting their certificates, because at the time they know they have passed they do not have a piece of paper—there is a delay. So, there would be a provisional registration and, by the time the term started, they would have had provisional registration.

The CHAIRMAN: Would a person of a religious order be picked up in relation to clause 20, because they may not be employed in the conventional sense?

The Hon. J.D. LOMAX-SMITH: There are such people as school chaplains, who have no capacity to be alone, as I understand, with children. They do not teach classes alone. They may be in a classroom with a teacher, and they have mandatory reporting training. Those sorts of religious people are not classified as teachers. They are volunteers.

The CHAIRMAN: It is not just chaplains, and I understand that they would often be in a one-to-one situation. I was thinking of, say, a nun or brother, or someone like that. I guess they could argue that they are not in the conventional type of employment situation. For example, we know that the Catholic system has changed dramatically to become more of a lay-type teaching service, but is that clause, in your view, to pick up those—

The Hon. J.D. LOMAX-SMITH: If they were nuns or priests without qualification, they could not become teachers or be caught, because there would be a requirement of registration. If they were teaching religious instruction in a religious school, they would be supervised in doing so. They would not be alone with the children, as I understand it.

The CHAIRMAN: Some people would have a conscientious objection, and I am not sure whether the Christian Brethren would come into that category. However, what position exists for people who have a genuine conscientious objection to governments and instrumentalities of the state being involved in what they would see as their religious practice—and that could stretch into a school situation?

The Hon. J.D. LOMAX-SMITH: I would feel uncomfortable about religion being a way of avoiding child protection measures, and I am not sure anybody would support these provisions being waived for conscientious objectors. I think there are some provisions such as registering doctors, nurses and professional qualifications that really have to take precedence. I am not entirely sure how I can support your views on this.

The CHAIRMAN: I am not advocating it. I am just raising the issue. The member for Bragg.

Ms CHAPMAN: Following on from that point (and the minister has indicated that her colleague, the Minister for Families and Communities, is actually having a look at the issue), under this bill we do not currently cover bus drivers, gardeners, canteen operators, SSOs, chaplains, and other visiting personnel, including volunteer parents and grandparents and so on—they are not going to be caught under the obligations here. Some of that category are already caught for the obligations into mandatory reporting of any suspected child abuse but, if obligations are ultimately introduced and they become caught under the process in relation to criminal records, I do not think there is any suggestion that they should be excluded. But there is a significant number of personnel in a school in any one day who are not teachers, principals or directors and, as I understand it, the situation to date is that if you are a volunteer and you do anything other than teach the curriculum you are not required to be registered. If you are an SSO, you are not entitled to teach, and again, therefore, both the person who might be acting as or claiming to be a teacher and the person who employs them are subject to this fine regime.

Clearly, in school situations we have people who are employed (such as SSOs) and who have certain areas of responsibility. To give another example in this area: if no teacher was available on a particular day and it took some time to obtain a replacement, obviously there is a supervision issue and an SSO might be called upon by the school to check that the children were in the class room and that they were getting on with some kind of interim work until a teacher was provided. In a situation like that it could be argued that that person was carrying out teaching duties and, therefore, a liability could be incurred on the part of the employer for allowing that situation to prevail; they could be prosecuted and pay up to $10 000. I seek some assurance from the minister that personnel who are employed in the school and who are undertaking work other than strict academic work will not be caught and that that obligation and liability will, therefore, not be imposed on the employer.

The Hon. J.D. LOMAX-SMITH: If the point the member for Bragg raises occurred, it would be bureaucracy gone mad. It would be extraordinarily unlikely that inspectors would patrol the corridors of schools looking for an unsuspecting SSO who might be teaching Latin to a small class. They would not be registrable in terms of qualifications, they would not be running a curriculum unsupervised, and the principal would have the role of maintaining the integrity of the education system in that regard. Notwithstanding that, there is also a duty of care in that all staff in DECS schools, particularly, have mandatory reporting training, and there is a duty of care to protect children.

In terms of nuns and priests, I point out that any nun or priest who happens to be involved in religious education per se within a Catholic school would not be at risk because these provisions have been workshopped, discussed and extensively consulted on by the Catholic education system and they are happy with these provisions. So I think we should take

comfort in the fact that the sector most likely to have nuns as volunteers has accepted and supported all these provisions.

Ms CHAPMAN: The other area in relation to this section is that this week the government announced an important extension of an initiative—that is, to enable children who are attending school to participate in other activities in the community. That in itself is not new because under previous programs students were allowed to have time off to undertake work with the Royal Life Saving Society, Surf Lifesaving, the Country Fire Service, the Duke of Edinburgh Award, and the like. Whilst that in itself is not new, the government's initiative enables students to receive a credit for the learning they receive from the service they undertake, and that credit is in relation to their SACE qualification—that is, the South Australian Certificate of Education.

It is my understanding that they can undertake these activities and receive up to eight units from community-based learning out of the 22 required to complete their SACE. So, the advent of this scheme—which, hopefully, will be a very successful one—means that the student will be spending some time in these activities, presumably at the beach or at some other place of work or training, and I want to ask the minister some questions in relation to supervision and the provision of education in the course of those activities, and how that fits in clause 20. As the minister may appreciate, if the student is engaged in an activity with the Surf Lifesaving Association, for example, the persons who are in charge of that activity may not be, or may not have in their employ at all times, a registered teacher.

My questions are: who does the government propose to provide the training for the purposes of being eligible to have the credit of up to eight units? Who is going to be responsible for identifying child attendance, which is an important requirement under SACE for them to be eligible for them to receive any credit? Who is going to provide the testing? Who is going to provide the reporting, and can that be undertaken by members of these organisations who are not registered teachers, and will that breach the provisions of clause 20?

The Hon. J.D. LOMAX-SMITH: The matters the member raises are essentially about volunteer organisations and clubs that have recognised certification or medallion standard qualifications they give. However, those qualifications are not educational qualifications per se; they are community organisations and they are levels of attainment. The people teaching the course are not regarded as registrable teachers. They would not be caught in this provision. They might be regarded as being involved in a teaching role where, perhaps, they are private providers or TAFE lectures who might be giving an educational component. That category of staff or teachers—if you like to call them that—would receive special authority to teach without fulfilling the provisions of registrable teachers, in that they would not have had a four year teaching degree. In fact, although this looks a complex process, it is actually in the bill currently. There is a limited take-up of those capacities to have special authority to teach. But it is unchanged from the current bill.

Ms CHAPMAN: I appreciate that the special authority provisions are already there, and I think it is an important safeguard, and a supplement to enable, in certain circumstances, the provision of special authority. But if the minister is saying that the people who are involved in the organisations can provide up to one third of the qualifying points for students—and that may impose a quarter or a third of their time of the teaching week in relation to those activities—is it proposed that the children for that period of time will actually be taught by persons who are not registered teachers?

The Hon. J.D. LOMAX-SMITH: Without going into the details of another matter unrelated to the bill, these young people are involved in a training experience not unlike school apprentices or trainees. There are a whole range of learning experiences that are counted for SACE and are part of the school retention initiatives that we have moved towards, but are not formal academic education as you and I might remember from our schools. That is not to invalidate those experiences or undervalue the efforts of young people, because we are talking about young people who might not otherwise complete their SACE certificate. So it is not formal education in the sense that most people appreciate. This is an extension of the school apprentices/school trainees/vocational training type experiences, and one would not expect all of those training opportunities to be performed by qualified teachers.

Ms CHAPMAN: So the minister can give an assurance that as to the organisations that provide this service to students, including monitoring their attendance, training, provision of reports, and so on, it is likely to be undertaken by non-registered teachers and that under no circumstances would they be facing prosecution under this act?

The Hon. J.D. LOMAX-SMITH: The categories of people that the member for Bragg has described would not face prosecution, but it does not in any way reduce the responsibility of the principals to perform a duty of care in supervising these children in their endeavours.

Ms CHAPMAN: Accordingly, given the obligation of the principal and the duty of care they have, let us use the following example and follow that through. Let us assume that a student undertakes three days a week at the school and undertakes what we describe as formal education as we know it within the school environment under the tuition of registered teachers, and for two days they are involved in work with the SA Country Fire Service. For the time that they are at the SA Country Fire Service I am assuming that the principal still has a duty of care to make sure that they attend, that they undertake the general instruction of the Country Fire Service facility personnel and that they complete the work for the purposes of being eligible to receive their credits. So is it proposed therefore that it is necessary for registered teachers from the school to in some way provide supervision and report cards? Does that mean that they need to attend with the student at these activities?

The Hon. J.D. LOMAX-SMITH: My understanding is that the certification of such a standard as the Duke of Edinburgh's Award is a formal process with rigorous expectations, so that would not be supervised, as far as I can understand, by a teacher, but I think I can respond. Clause 61 actually allows for regulations to be made around this area and to look at a category of exemptions, and these might well be the sorts of categories you are looking at.

Ms CHAPMAN: For example, in the press release of this week for the SA Country Fire Service you announced, minister:

> Cadets are trained in preparation for volunteering as an adult to not only fight bushfires but also attend car accidents, storm damage and other community crises. They also participate in public education campaigns to minimise the impact of disasters.

Let us assume that one of these students undertakes that role and seeks to have that credited for his or her points and attends these activities. I understand from what the minister is saying that the principal is responsible to make sure that

they attend, that they are safe, that they are in fact doing the work that is required to be eligible for the points and that there is some kind of reporting system that monitors that.

The Hon. J.D. LOMAX-SMITH: The principal is responsible for supervising the curriculum and has a duty of care, but the people involved in this course are not teachers for the purposes of this act.

Ms CHAPMAN: Can the minister give an assurance that in the examples as announced this week no-one in these organisations would be prosecuted under this act for allowing the learning, training and life experiences to be provided under the instruction and guidance of non-registered teachers?

The Hon. J.D. LOMAX-SMITH: I can assure the honourable member that they will not, and neither will the proprietor of the Hungry Jack's who has a school apprentice or trainee.

Clause passed.

Clauses 21 to 27 passed.

Clause 28.

Ms CHAPMAN: This clause relates to the obligations of the Registrar, who is employed by the board, I suppose, and who has certain obligations to keep a proper record of the persons registered. There are new provisions for what is to be disclosed on the internet etc. Under subclause (6) the Registrar must:

> (a) make a record of the full name of each registered teacher and the information entered in the register under subsection (2(b), (c), (d), (e) and (f) in relation to the teacher available for inspection on application to the Registrar;

It is probably self-evident that a person's name and confirmation as to whether or not they are registered is something that is reasonably available to the general public, for obvious reasons. There can be a quick check as to whether a person who is on the register is registered. Essentially, to be privy to the qualifications, details of any conditions on the registration, expiry dates, addresses and such aspects, including their registration number, is in the category of what could be relatively sensitive information and, therefore, is in the second category of being available for inspection on application to the Registrar. First, who may apply to the Registrar? Is anyone restricted? What is the application fee, if any?

The Hon. J.D. LOMAX-SMITH: The honourable member has ascertained the reason for our limiting the available information and not publishing all details on the web site, and that is the matter of privacy. It does seem reasonable that a teacher's name, registration expiry date and registration numbers should be available to check the credibility of an applicant in terms of a job. We envisage that other registration authorities, employers and interested individuals may ascertain whether a person is a registered teacher whilst still protecting their privacy, and further information is only available on application to the board. I think it would be only under special circumstances that further information were revealed. There is no fee for this.

Ms CHAPMAN: I appreciate the answer, because in the briefing on this matter I was informed that we would start with a presumption that anyone could apply and that it would be made available unless there were special circumstances. If, for example, a member of the public who was proposing to enrol their child at a school wanted to inquire as to whether there were any conditions on the registration of a teacher employed at the school, they ought to be able to make that application and have that information available to them for the purposes of making that assessment and decision.

The Hon. J.D. LOMAX-SMITH: I think people have the right to know the bare details, but they would not be allowed to know the residential address or the details of a criminal record that were deemed not to be relevant. There are issues that I think should not be revealed.

Ms CHAPMAN: The Registrar's obligations under subclause (2) do not refer to a criminal record. It is probably reasonable that the address not be provided, but where the criminal record issues are likely to arise is under subclause (2)(d), which details any condition of a person's registration, and under subclause (2)(g), which is in relation to the outcome of any action taken. That is not available on application, anyway.

What we are looking for here is a situation where a parent may be inquiring to find whether there is a condition on a person's registration, and that may in fact relate to the fact that there has been an identified criminal activity. For example, a teacher in the past may have had a mental health disability and be under a condition that they are to continue to consult with a psychiatrist, take medication, whatever the conditions are to be, because this is a fairly new and expanded role of the board, to be able to set these conditions. Surely that information ought to be available to a prospective user of the service, particularly if they are a parent?

The Hon. J.D. LOMAX-SMITH: This was in part a compromise to protect the rights of individuals. Some people who were part of the consultation demanded to know everything: the medical records, the psychiatric history, the criminal records, the home addresses—that was deemed unacceptable and an excessive invasion of people's privacy. Here we have the capacity for the basic information to be easily accessible. However, more searching details can be requested and the board would make a decision based on the purposes and the nature of the information sought.

Clause passed.

Clause 29 passed.

Clause 30.

Ms CHAPMAN: This is the special authority provision which has been referred to in the committee debate. What is the proposed cost, if any, of making an application to have special authority? Does the teacher have to apply, or can an employer make the application? Does the person who is applying pay that fee?

The Hon. J.D. LOMAX-SMITH: There is a fee of $60, and it requires a real person to do it.

Ms CHAPMAN: Would the 'real person' be a principal of the school, or does it have to be the teacher?

The Hon. J.D. LOMAX-SMITH: The teacher.

Ms CHAPMAN: The individual teacher making the application?

The Hon. J.D. LOMAX-SMITH: Yes.

Ms CHAPMAN: Dealing with people in religious order situations, would someone who is undertaking Sunday school duties in the precincts of a school have to obtain special authority?

The Hon. J.D. LOMAX-SMITH: Not if it is a voluntary activity and they are not teaching secondary or primary education.

Clause passed.

Clauses 31 to 37 passed.

Clause 38.

Ms CHAPMAN: Clause 38 is the 'disability' provision—they are my words—which is now to be described as 'impairment of teacher's capacity', and there are new obligations on employers on the reporting of such impairment

in clause 39. Under clause 38 the board will have to make a determination as to whether a teacher's capacity to teach is 'seriously impaired by an illness or disability affecting the person's behaviour or competence as a teacher', which I suppose has moved from the old mental and physical disability type description.

Given that the term 'seriously impaired' is not defined in the bill, I am not sure that description helps us to make a judgment on that. I expect the minister will confirm that this matter will be at the discretion of the board when it makes this determination. But I understand that some guidelines are being or have been prepared. Will the minister make those available to be published? I guess that may follow in a similar way the guidelines that are available to the board when it assesses any prior criminal offences for the purpose of disqualifying someone from holding or obtaining registration qualification.

The Hon. J.D. LOMAX-SMITH: I thank the member for Bragg. The board will release further guidelines when it has determined them once the bill has been passed. The teacher's competence and behaviour is as a result of illness. The changes incorporated in this bill reflect the requests of both unions and both independent and Catholic school sectors, who were concerned about the nature of incapacity. There is a wish not to entrap people with treatable diseases like lymphoma and cancer who might well be incapable of working for a short period of time. However, one would not want to damage their employment or future prospects. This clause has been put together with the aim of providing fairness in picking those areas where it might even be possible to have conditional registration.

Ms CHAPMAN: I thank the minister for that answer. However, in fairness I should point out that the provision is not just confined to illness, but it goes on to say 'or disability'. So, they will probably have the same challenges they have always had in determining—for example, with a teacher who suffers epilepsy—whether it is a chronic condition that might impede them from being able to carry out duties in a classroom situation. We are yet to see how the board might implement specified conditions.

As clause 39 covers the same matter, I will quickly raise this matter. The obligation of the employer is a new provision, because instead of just the board making a determination on application a direct obligation is proposed for the employer to report an impairment of a teacher's capacity. This means that an employer (who may not be a medically qualified person) has an obligation to report a belief that a teacher is seriously impaired by an illness or disability affecting that teacher's competence or behaviour 'as soon as practicable' and submit a report.

How does the minister propose that the employer will have the capacity to make that assessment, particularly if they are not medically qualified? If they fail to identify or observe sufficiently to make that report, they run the risk of incurring a penalty of $10 000. In addition, with the definition of 'as soon as practicable', will the minister identify when that is from?

The Hon. J.D. LOMAX-SMITH: I think the wording says that an employer would have to report. I do not think that means they would produce a document called a report; it would be writing a brief letter saying, 'I wish to report that'. The matter is about behaviour and competence of the teacher. I think the principals would notice if something had occurred in relation to the manner, behaviour or competence of a teacher. One would expect that 'as soon as practicable' might be within a matter of weeks or months, not years.

Ms CHAPMAN: When is the 'as soon as practicable' from? Is it from the time of first making the observation that the person was under some incapacity or impairment; or is it from the date on which they should have noticed it and failed to do so?

The Hon. J.D. LOMAX-SMITH: I appreciate the different connotations that the member raises. It is when they have formed an opinion in their mind, and it might have been going on for some months or years, but it is the realisation that there is a significant problem. It is the forming of the view in their own mind.

Ms CHAPMAN: So it will be a defence to an employer in that situation, if they submitted to the Teachers Registration Board that they had noticed some unusual behaviour, but over a period of six months ultimately formed the view that they felt that this person may be acting under a disability or illness that would justify a suspicion that the serious impairment test had been reached, and that in those circumstances, if that was their presentation in a lead-up to a notification to the board, there would be no prosecution for failing to act as soon as practicable from first observation.

The Hon. J.D. LOMAX-SMITH: I believe that, and I think that it is true of most people—they make observations which suddenly become crystal clear after several experiences.

Clause passed.

Clauses 39 to 47 passed.

Clause 48.

Ms CHAPMAN: Minister, this relates to the counsel to assist the Teachers Registration Board. They may be assisted by legal counsel, and that may be a facility that is available to them at the moment, but is there some funding, and is there some restriction on this? Does this operate at present, and how is it proposed to operate? Is there some budget or contingency provided by the government to ensure that they have that availability to them, especially as they are clearly about to embark on a serious increase in the amount of work that they may have to consider and set conditions on?

The Hon. J.D. LOMAX-SMITH: The current education act has no explicit provision but my understanding is that these counsel often do assist, even now. The 2001 proposed bill, the Buckby Liberal bill, had this same provision, and we are making explicit the board's ability to be assisted by a legal counsel. My understanding in the current scheme of things is that the members of the AEU and the IEU are often assisted with legal counsel at the hearings, and this is the clause that gives that power.

Ms CHAPMAN: I think that is covered under clause 47 for the parties themselves; or is the minister suggesting that the government is picking up the bill as well for the party's representation, that is, the teacher and/or the union—under clause 47?

Ms Breuer: We are on clause 48. We just carried clause 47.

Ms CHAPMAN: I know.

Ms Breuer: So it's irrelevant what you're saying.

Ms CHAPMAN: Notwithstanding the interjection—

The Hon. J.D. LOMAX-SMITH: Yes, there are fees for this and it occurs already. They have to pay fees and they budget for it.

Ms CHAPMAN: When you say 'they', you mean the AEU and IEU?

The Hon. J.D. LOMAX-SMITH: No; the AEU and the IEU have their own representation.

Ms CHAPMAN: And they pay for it themselves?

The Hon. J.D. LOMAX-SMITH: They pay for themselves.

Ms CHAPMAN: I am assuming that is under clause 47; so if we just go to clause 48—

The Hon. J.D. LOMAX-SMITH: And the board has representation; they have Crown Law advisers.

Ms CHAPMAN: What is the current budget for them to have legal counsel, and what is the proposed budget?

The Hon. J.D. LOMAX-SMITH: It is within the board's delegated authority, and I expect it not to be an excessive sum of money because the fees have risen.

Ms CHAPMAN: Is there any budget available?

Ms BREUER: On a point of order, Mr Chairman: that is the fifth question that has been asked on this one clause. If this keeps going—we have been on this now for an hour and we are hardly moving on.

The CHAIRMAN: If the member for Bragg would like to put this question quickly—I do not think it was five, but she is close to four.

Ms CHAPMAN: One, of course, was repeated, Mr Chairman, because of the interruption from the other side. Minister, is there any budget at present for legal counsel for the Teachers Registration Board?

The Hon. J.D. LOMAX-SMITH: The board runs its own budget and has its own budget line, but I cannot tell you what it is.

Clause passed.

Clauses 49 and 50 passed.

Clause 51.

Ms CHAPMAN: I move:

Page 23—

Lines 19 and 20—Delete paragraph (b) and substitute:

(b) is of a kind prescribed by regulation.

Line 25—Delete 'define the offences to which they are to apply and'

Clause 51 is a proposal that arrangements are to be entered into between the Teachers Registration Board, the Director of Public Prosecutions and the Commissioner of Police, who are obliged under this proposed clause to establish arrangements for reports to be made to the board of the laying of charges or offences to which this section applies, and the outcome of any proceedings of those charges. This section applies to offences which are essentially determined by this group by an agreement, and they are to enter into that arrangement. The only term of reference that is given for the purposes of identifying which offences apply in the first instance is: has the offence been committed or alleged to have been committed by a person who is a registered teacher, or believed to have been a registered teacher—so it is an additional obligation—and raises serious concern about the person's fitness to be, or to continue to be, registered as a teacher.

That is the only term of reference, and the proposed amendments 2 and 3 printed in my name seek to amend this clause by providing that the offence must be one that is prescribed by regulation. I have received an indication that the extent of offences that might apply to be taken into account is so extensive, and may apply to jurisdictions outside of this state or even outside of the country and therefore may be so exhaustive a process to provide by regulation, that there ought not be the imposition for that to be included by regulation. But this is a very serious aspect in relation to the effective disqualification for a teacher to either hold or obtain the registration qualification.

In my submission it ought to be by way of prescription by regulation. Of course, that introduces all the obligations under subordinate legislation, which means that the parliament has the capacity to review and make a contribution as to the application. In those circumstances, I ask the committee to consider favourably those amendments and let the parliament have a say in relation to what should apply.

I should say that at present we have a system that, where police checks have been undertaken or information comes before the board of an offence in relation to a teacher who is seeking either to obtain registration or defend against disqualification from registration, there are a number of general guidelines that the board implements, including such things as the total criminal history of the proposed teacher to be registered, severity of the sentence imposed, length of time since the offence, any rehabilitation, age at the time of the offence, and, obviously, the gravity and nature of the convictions and whether they applied to a child victim. There are a number of guidelines—and that by no means is exhaustive—which help the board make an assessment but, at the very least, the parliament should have a say as to which of those offences should be included.

The Hon. J.D. LOMAX-SMITH: During consultation and the process of developing the settled bill, I have been extremely collaborative. We have made many changes to take on board perceptions, disquiet and suspicion. We have come to many compromises over a range of issues in order to accommodate people's view. This is the point at which the government will draw a line in the sand and say, 'This is not one on which we can compromise.' This strikes hard at not only the functioning of the board but also the role the government would play in terms of interference with the board's activity. The board has engaged in police checks since 1997, and this bill will get over the issue of the two-thirds of teachers who have never been through a police criminal check. It will tidy up and impose a range of new obligations, responsibilities and powers on the board.

The problem with trying to have parliament prescribe a list of offences is that they are likely to end up in regulations and there is the possibility of disallowance. There are at least 11 000 criminal offences across the country, because we need our own criminal offences and each state's criminal offences to be taken into account, many of which have different, contradictory and similar, but slightly different, names. The wording is various.

With this plethora of legislative nomenclature, we have the possibility of regular changes, so parliament would have to be aware, mindful and up to date to take this list on board. They would have to put them into regulations; they would be constantly changed; they would be constantly out of date; and they would be disallowed. There would be total chaos. As it stands, the board has expertise after, I might say, seven years of operating a procedure that was put in place by the previous government. It has had seven years' experience of acting without government interference and without political experience, negotiating with SAPOL and the DPP, and using their discretion. They have the experience to do this, and I do not think parliament should be interfering.

The problem is that the sort of list being proposed will constrain and, in some circumstances, might even allow someone who has committed a significant offence to escape because the regulations will not be up to date. In fact, we now have in place quite strict protocols and procedures, which

were decided upon by the board, and the guidelines for the sorts of offences that will be regarded as unacceptable are clear in that they talk about anything with child protection implications, anything relevant to school teaching environments and any sexual offences. The whole criminal history and a range of issues will be taken into account.

If parliament were to unravel and unpick those in this place it would allow all sorts of unexpected and damaging occurrences. I have it on the authority of the board that it will become unworkable. I do not want this to be bogged down and allow people possibly to escape the law but, more importantly, I do not want the fear that we have not classified an offence. Where we rest at the moment it has worked for seven years; it is fair; it is accepted; and it is respectable. We are dealing with people who have the experience and expertise, and I think there are some things that parliamentarians need to get out of and allow the board to go about their business with.

Ms CHAPMAN: Minister, given that you have indicated that this is such an onerous task—to actually provide and define the offences which are to apply—why then do you impose this obligation on these three groups under subclause (3)? If it is too difficult to be done for the purposes of the parliament, how can you possibly expect these arrangements, that must define the offences to which they are to apply, to work?

The Hon. J.D. LOMAX-SMITH: I said the guidelines now define the categories of offences that may be used. If the honourable member can imagine a print-out of someone's criminal record, if there was a crosscheck or computer check against 11 500 offences (which change regularly and have different terminology and jurisdictional changes), the chances of someone not being caught would be higher than if there were categories. The categories in subclause (3) are defining offences. It is quite different from listing.

Amendments negatived; clause passed.

Remaining clauses (52 to 61), schedules and title passed.

Bill reported with amendments.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I move:

That this bill be now read a third time.

This has been a collaborative effort. I was pleased that so many members of this house took the time to sit through this matter and also to be involved in the consultation. I thank the member for Reynell, the member for Unley and the member for Heysen for their involvement in the consultation. I particularly thank the member for Bragg, who has been involved in this debate, and the member for Waite and the member for Hartley, who have played an important role in negotiating some of these clauses with the member for Mitchell. I think we have a very good bill. We have compromised on several issues and reached a consensus. I commend the bill to both the members of this house and those in another place.

Bill read a third time and passed.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

MEDICAL PRACTICE BILL

The Legislative Council does not insist on its amendment No. 52 to which the House of Assembly has disagreed.

STATUTES AMENDMENT (MISCELLANEOUS SUPERANNUATION MEASURES No. 2) BILL

Returned from the Legislative Council without any amendment.

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1198.)

The Hon. D.C. KOTZ (Newland): I am pleased to support the bill, which amends the Criminal Law Consolidation Act and makes consequential changes to the Summary Offences Act to strengthen the laws relating to child pornography and the sexual activity of paedophiles. These amendments will move child pornography offences from the Summary Offences Act into the Criminal Law Consolidation Act.

The Attorney-General's second reading explanation tells us that the bill aims to protect children from exploitation. As we all know, child pornography is the ultimate in the heinous exploitation of children, particularly now with the advent of new technologies which have increased access and, obviously, the prurient interests of those who deal in deviant behaviour. The purpose of the amendments is to reduce and, as far as possible, eliminate the possession, production, sale and supply of child pornography.

It is very pleasing to see that the amendments within this bill will, in fact, increase the penalties for the offence of possession of child pornography, as well as for the production or dissemination of child pornography. The bill will introduce new offences, one of which is procuring and grooming a child for the purpose of engaging in sexual acts, and filming or photographing children for prurient purposes. The increases in penalties for child pornography offences have obviously been considered in the light of penalties in other jurisdictions for these particular offences.

Again, in the second reading speech, the Attorney-General identifies that, in determining whether an offence is a subsequent offence, all previous offences involving child pornography will count. I presume that means that previous offences will be brought to the immediate attention of the court and included in consideration of sentencing options. That, I believe, is a very necessary requirement. I am pleased to see that it is being used in this instance.

The bill also broadens the definition of child pornography to include material that is intended or apparently intended to excite or gratify sexual interest, as well as a sadistic or other perverted interest in violence or cruelty. This will allow for the prosecution of offences where the material may be highly offensive but not overtly sexual. The bill includes a defence that publications, or areas relating to publications such as films or computer games, that have already been classified by the classification board (that is, apart from those that are refused classification) will not be part of the definition of child pornography.

At this point in the second reading speech the Attorney-General said he was concerned by the use of the word

'paedophile' and that he prefers to use the word 'pederast' and, by way of explanation, tells us that the Greek origins of the word 'paedophile' come from the combination of 'child' and 'like' or 'friendship', and then states that he laments the loss of innocence of the word 'paedophile' and prefers to use the term 'pederast' to describe the sexual exploitation of girls and boys. Well, I am not one to contradict the Attorney-General in his terminology, but I am afraid that in this instance I must thoroughly disagree with him. The dictionary that I use looks at 'pederast' and interprets it as one who commits sodomy with a boy. The intent of this act is not necessarily to restrict the sexual exploitation only due to sodomy of a boy. This act should include and does talk about children—

The Hon. M.J. Atkinson: 'Phile' means 'like' in Greek. They do not like children.

The Hon. D.C. KOTZ: —which means boys and girls.

The Hon. M.J. Atkinson: Yes, I understand that.

The Hon. D.C. KOTZ: Perhaps the Attorney-General did not hear me explain that the dictionary that I used interprets 'pederast' as sodomy with a boy. It is quite explicit and specific. It does not relate to boys and girls.

The Hon. M.J. Atkinson: Try the Greek dictionary.

The Hon. D.C. KOTZ: Well, the Attorney-General wants to prove his point and says I should try the Greek dictionary. I suggest that when we are talking about Greek origins we are talking about a past time, and we have moved forward quite considerably into a different era and age, and in this era and age the word 'paedophile' is far more acceptable and understood by those—

The Hon. M.J. Atkinson: 'Phile' in Greek means 'like'. Paedophiles do not like children.

The Hon. D.C. KOTZ: I relate to the Attorney-General again that 'paedophile' in my dictionary is interpreted as one who directs sexual love towards children. I am sure that all of us in this day and age understand that sexual love is a perversion. I think we can understand that. It also talks about 'towards children'. I can quite accept that because we are talking about legislation to protect not just one gender of children but both genders—boys and girls. So I have to disagree with the Attorney-General and use the word 'paedophile'. I cannot relate to calling the Paedophile Task Force the pederast task force, because I doubt whether many people in this state would understand what we were talking about. So I will continue to use the word that seems most appropriate and covers both boys and girls, and this is what this act is about.

One of the areas that is again mentioned in the second reading speech and relates to the bill itself is a new offence of filming for prurient purposes a child who is engaged in a private act. It goes on to explain that a private act can be a sexual act, using the toilet, undressing, or any activity involving nudity. It will not matter whether the activity that constitutes the offence occurs in private or in public, whether the child consents, or whether a parent or guardian consents to the act taking place.

There is an explanation as to why these definitives are used. The Attorney-General explains that recent arrests interstate have occurred where teachers have installed filming devices in changerooms to film children changing and, of course, by the Attorney-General's reckoning, such actions are likely to be caught by this bill.

This is an area that causes me some concern, but I express to the Attorney-General that obviously I support the intent but am concerned that we talk about a child who is engaged in a private act, which can be a sexual act. However, there is then a comma, and it goes on to talk about using the toilet, undressing or any activity involving nudity. I am not sure whether the Attorney-General means that a sexual act that is involved with the other three definitives that he is using, or whether in fact—

The Hon. M.J. Atkinson: Definitions.

The Hon. D.C. KOTZ: No, not definitions. Specifics are being used, other than a sexual act. We are using the toilet, we are undressing, or any activity involving nudity—there are three different definitions explained where this would be classed as an offence if it was captured on film.

I know that a previous speaker raised concerns relating to whether the intent of this provision would, in fact, catch families who would normally engage in taking family photographs that would include all the specifics that are defined in those three areas about which I have spoken. Families often take photographs of their children in baths; they may even take them on the toilet with a toilet roll that extends, perhaps, to the dog or the cat that is also having a bit of fun with the toilet roll. Certainly, undressing is another activity that families often put on film.

The interpretation in the bill that explains the definitions of a private act again uses acts such as using the toilet, showering and bathing, being in a state of undress, and engaging in a sexual act. It is the acts such as toileting, showering and bathing, and being in a state of undress that I am concerned about, and I am really raising this to gain an assurance from the Attorney-General that I may, in fact, be interpreting this incorrectly. But, as I see it at the moment, I believe there is a possibility that families could get caught up in some of the specifics that the Attorney-General has placed in the bill.

One of the reasons this came to mind when reading this particular provision was that only a few weeks ago I saw a documentary that was made either in Canada or the United States (I cannot recall which). It portrayed a rather horrific outcome from the introduction of pornographic laws that related to children in that country. The story was about a single mother of three young children who was accused of several offences under the new pornographic laws. Her children were taken away from her by welfare agencies and, throughout what was an extremely lengthy process to bring a final resolution to the matter, she was not allowed access to those children.

In looking at how the situation came about, it appeared that these laws had been introduced and they were, apparently, reasonably definitive in terms of the specifics which I am outlining at the moment and which are apparent in the bill we are considering. Photographs of her children were taken in her home and were sent to a commercial premises for development, and a report was made to welfare agencies by the manager of that commercial premises under mandatory reporting requirements.

The photographs were taken in the children's bedroom when they were preparing for bed, and the scenes shown in this documentary were, again, ones where a family was conducting ordinary family matters. However, the photographs, viewed out of context and in isolation from the circumstances of the evening, where determined pornographic. The woman was preparing the children for bed: they were undressing. The babysitter, who arrived to look after the children while the parent went to work, came into the room. The children were in a state of undress but they were in a happy mood. They were playing and jumping up and down

on the beds. A camera was in the room and the mother took a photograph of the children and the babysitter. The camera was placed on a side cupboard, and the hilarity and extent of the circumstances meant that the children were now racing around the bedroom and jumping up and down on the bed. The babysitter and the mother were involved and were part of this activity, chasing the children around and doing what normal parents and adults do with young children for whom they have care and concern. One of the children took the camera which was one of those that, with the press of a button, can take continuous photographs.

When the photographs were developed they showed portions of the children's anatomy—whether it was the buttocks, or the legs. One of the young children, who was aged about two, as young children do when they see an adult close to them, jumped off the bed and lunged into the arms of the babysitter, who was a very pregnant lady. She caught the child in her arms and, as it arrived in a sort of upside-down position across her body between her chest and her rather large stomach, it did come out in the photograph as something quite strange. Watching the documentary it concerned me that this family, this woman and her three children, had been separated for something like 10 months purely as a result of innocent family fun, and that she and the children had actually been put through one of the most horrendous times of their lives.

Having seen that only a short time ago, I was concerned to read this aspect of the act which now defines areas of filming that may include the image of a child sitting on a toilet, bathing, undressing, or in a state of nudity—all the areas in which families indulge. If the Attorney-General can assure me that there is a means by which the family section will not be intruded upon through what is a rather horrific act in terms of the nature of exploitation of children, as opposed to a family looking at and playing with their children and doing very natural and normal things, I will be very happy to fully support what I believe is a very important bill.

The other aspect that I found concerning related to new section 63C—the pornographic nature of material. This new section provides that, even though the circumstances of the production of particular material and its use or intended use may be taken into account in determining whether it is of a pornographic nature, none of those circumstances will deprive material that is inherently pornographic of that character. The new section further provides that no offence against new division 11A will be committed in the following circumstances: production, dissemination or possession of material in good faith and for the advancement or dissemination of legal, medical or scientific knowledge. I do not necessarily have any problem with that provision, but the following provision refers to the production, dissemination or possession of material that constitutes, or forms part of, a work of artistic merit if, having regard to the artistic nature and purposes of the work as a whole, there is no undue emphasis on aspects of the work that might otherwise be considered pornographic. I do have a concern about that. It means that we are identifying an area where work of artistic merit will be considered differently because there will be no undue emphasis on aspects of the work that might otherwise be considered pornographic.

In looking at the other jurisdictions across Australia, I find that the Victorian act is very similar in that it too excludes the area of scientific or educational purpose, or medical or legal areas. However, it also refers to artistic merit, as does this bill but, instead of providing an unqualified defence, the Victorian act includes a qualification that the defence of artistic merit cannot be relied on in a case where the prosecution proves that the minor was actually under the age of 16 years. I ask the Attorney-General whether he will consider—and I can see that he is not listening at the moment—instead of a totally unqualified provision that relates to these areas, the qualification that the Victorian act uses. I ask the Attorney-General to consider whether that would be of benefit to us.

Time expired.

Ms CHAPMAN (Bragg): I indicate that the opposition is supporting this bill, which was introduced in October this year by the government. Some of the preliminary matters were covered by the former speaker, and I expect that others will do similar, but it is important to place on the record that this bill amends the Criminal Law Consolidation Act and makes consequential amendments to the Summary Offences Act. Essentially, there will be a raising of the level of seriousness, in terms of both penalty and the procedure that will apply to the serious offence surrounding child pornography.

Apart from simply protecting children from exploitation, degradation and humiliation, the amendments also seek to reduce as far as possible, or to eliminate, the possession, production, supply and sale of child pornography. The increase in penalty to 10 years maximum imprisonment will apply for the production or dissemination of child pornography; five years will apply for a first offence for the possession of child pornography; and seven years will apply for subsequent offences. It is important that, in the determination of subsequent offences, all previous offences involving child pornography be taken into account. It is intended, by virtue of the proposed bill, that there will be a broadening and extension of the definition of 'child pornography' to include material that is apparently intended to excite or gratify sexual interest. There is a new offence of procuring and grooming a child for the purpose of engaging in sexual acts, or filming or photographing children for prurient purposes. Pornography offences will be increased to be in line with those in other jurisdictions: that issue has also had some reference.

I think it is fair to say that the second reading explanation outlines comparable interstate and commonwealth legislation and covers the importance of the citizens of South Australia, in particular the children, having protection. I will not reiterate those issues but I point out that the opportunity to produce and disseminate child pornography has increased vastly since the advent and accessibility of the internet and computing services, which make this crime so much more capable of being duplicated and the offending material disseminated.

I think it is important to note that the member for Fisher has raised concerns about ensuring that the offences of child pornography proposed here are not going to catch the family who might quite innocently retain in their possession material which has innocently been produced but which may include the image of a child or part of a child, often a family member, in some state that may, on the face of it, be interpreted as being for the purposes of exciting or gratifying sexual interest. The classic situation is photographs of young children in infancy, perhaps, playfully engaged in a swimming pool in the back yard, in a naked or semi-naked state, with the family quite innocent of any intention to have any excitement or gratification of sexual interests, and certainly not with any sadistic or perverted intent in the production of

this pornography, who may in some way find themselves exposed to prosecution under this new law.

It is important, therefore, to detail the definition of child pornography under this act. It is an issue that has been traversed in the July 2004 *Trends and Issues in Crime and Criminal Justice*, in an article entitled 'A typology of online child pornography offending', by Tony Krone. Without detailing what has been identified there in relation to the definition, what is relevant for the purposes of this legislation is what has been defined in this bill. Under the proposed bill, 'child pornography' means material:

(a) that—
  (i) describes or depicts a child engaging in sexual activity; or
  (ii) consists of, or contains, the image of a child or bodily parts of a child (or what appears to be the image of a child or bodily parts of a child) or in the production of which a child has been or appears to have been involved; and
(b) that is intended or apparently intended—
  (i) to excite or gratify sexual interest; or
  (ii) to excite or gratify a sadistic or other perverted interest in violence or cruelty.

Specifically, there must be a finding beyond reasonable doubt of intent to excite or gratify in addition to the existence of material as described, involving a child or image of a child or part thereof. That, I suggest, is a definition that sets a fairly high barrier in relation to successful prosecution, and probably for good reason. I do not question or criticise that, but I hope that it helps to remove any fears on behalf of the member for Fisher as to the opportunity of innocent family members being caught with family photographs in the family album. I also note that the article that has been referred to from the Australian Institute of Criminology sets out fairly concisely some information in relation to categories of child pornography. I do not propose to traverse those but refer interested parties to that material.

I do point out, however, that the references to that article, probably mistakenly, do not actually refer to some of the information provided. Should those who propose to contribute to the debate rely on this article, I might mention that the papers from the Ninth Conference on Child Abuse and Neglect are in fact published on the internet for those who wish to view them, but the J. Stanley paper is called 'Child abuse and the internet' and was in fact from the 2001 conference. There is a paper, also by Janet Stanley and Katie Kovacs, which is referred to in the references of that article which is called 'Accessibility issues in child abuse prevention services', from the 2003 conference.

I hope that those who are relying on that material could have a look at those articles to make sure that they are not inadvertently misled in relation to the information. For those who follow this debate or are interested in aspects of this matter, Taylor and Quayle's *Child Pornography: An Internet Crime*, is a book that they may wish to refer to, but there is also a very important paper entitled 'Model of problematic internet use in people with a sexual interest in children', authored by Ethel Quayle and Max Taylor, published in Volume 6, No. 1, 2003, of *Cyberpsychology and Behaviour*. That is an important article, published in the same year as the book that is referred to in those references, to accurately give a full picture in relation to the material that is published in this article. I refer members of the house to that, as well as those who might follow this debate at a later time.

Child pornography is clearly not new. The mechanisms by which it can be produced and disseminated have vastly increased. It is a tragedy that we have had offences against children throughout history. How we have dealt with them and our abhorrence of them varies from time to time in certain countries with different levels of seriousness. While offences against children and child pornography are not perhaps the most heinous of child sexual offences, they fall into a category that fills one with revulsion and abhorrence. We must recognise that in child pornography there is significant foul perversion as well as disgraceful and illegal conduct in which tragically children are victims of physical and sometimes shocking sexual assault.

Another point is that the use of computers and the internet in this medium can lead one to the view that this crime—whether for identity theft purposes, for computer fraud or in the publication and dissemination of child pornography—is perhaps more confined to the younger population. There can be nothing further from the truth. Whilst it is well known that an overwhelming majority of all crime in Australia is committed by persons under the age of 30 years, this is an area which sees no bounds in relation to age. While this is a crime not exclusive to the male population, I am not in a position to make an observation as to whether or not that is because they are caught more often. It seems that an overwhelming number of people convicted of offences in relation to child pornography are male, but by no means is it confined to the young.

A colourful and most tragic case has recently been covered in the Sydney *Sun-Herald* by Alex Mitchell, who wrote of the death earlier this year of Leonard Keith Lawson. This article leads one to appreciate the extent of what could be nothing other than the foul perversion of some people by illustrating some of the extreme circumstances. It highlights the fact that this is not a new offence and is certainly not confined to the young, as Mr Lawson was born on 16 August 1927. The *Sun-Herald* article reads as follows:

> He was a monster whose foul perversion continued right up until his death in a maximum security jail. . .
>
> When prison officers confiscated videos from the cell of a double murderer and serial rapist Lenny Lawson during a random security check, he told them their disciplinary action would lead to his death.
>
> They went ahead anyway and when they found that his videos were disgusting and perverted scenes he had edited from Sesame Street and late-night foreign-language films on SBS, they transferred the 76-year-old to maximum security at Grafton Jail.
>
> Three days later, while sharing a cell with Allan Baker, serving life for conspiracy to murder, Lawson suffered a heart attack and died.
>
> Lawson, prisoner No. 101700, had been in continuous custody for more than 41 years and had served 48 of the past 49 years in prison, earning the notoriety of being one of the longest-serving prisoners in Australia.

Sadly, even being confined in prison does not appear to diminish the capacity to be able to continue to commit this offence. The article goes on:

> Lawson's private video collection, now in the Department of Corrective Services archives, is destined to become the object of intense psychological study by criminologists for years to come.
>
> After gaining permission to have a video recorder in his Grafton cell 10 years ago, Lawson became an expert at recording excerpts from television programs and editing them into feature-length movies.
>
> His films are a montage of sexual depravity. Scenes switch from children playing in an African village to a violent rape scene in Asia, or from Sesame Street singalongs to a raunchy strip club, or from a documentary on Marilyn Monroe to a woman being strangled.
>
> A prison psychologist had drawn attention to the fact that Lawson's movies have clearly defined themes of sexual violence and aggression against women, sexual submission of women, voyeuristic sexual fantasies and sexual perversion, often associated with children.

Leonard Lawson . . . was a successful commercial artist who created the popular 1950s comic strip The Lone Avenger, depicting a masked lawman's tireless fight against crime by rescuing maidens in distress and bringing evil-doers to justice.

The creator of The Lone Avenger became The Lone Predator on May 7, 1954, when he took five women, including two teenagers, into bush at Terrey Hills in Sydney's north for a photo shoot for a magazine.

He suddenly produced a sawn-off rifle, tied the terrified women around the arms and legs, raped two of them and sexually assaulted the others.

After a nationwide manhunt, he was captured, tried at the Central Criminal Court, found guilty and sentenced to death by Justice Clancy.

But Lawson, then 27, escaped the death penalty when his sentence was commuted to 14 years in prison, and he was taken to Goulburn Jail where he started on the road to redemption by renewing his interest in Catholicism and painting religious canvasses.

On May 27, 1961, after serving just seven years and 20 days, he was freed by the NSW Parole Board because of his scrupulously good behaviour.

Lawson was on the outside for only four months when he took 16 year old Jane Bower to his Collaroy flat to paint her portrait. He tied her up, sexually assaulted her, stabbed her and then strangled her.

Another manhunt began for the monster with the Jekyll and Hyde personality. It came to a hideous conclusion in the chapel of the Church of England Girls Grammar School at Mossvale in the Southern Highlands, which he entered waving a loaded automatic rifle on Melbourne Cup day.

As police stormed the school to rescue the hostages, Lawson fired a volley of shots killing 15 year old Wendy Luscombe who was sitting in the pews. When convicted of her murder and sentenced to a life term, he turned to the jury saying: 'My greatest punishment will come at the hands of my own conscience.'

He hit the headlines again in December 1972 when a dancing troupe visited Parramatta Jail to give a Christmas concert to inmates. As the performance drew to a close, Lawson jumped on to the stage armed with a knife and held the blade at the throat of dancer, Sharon Hamilton.

He was disarmed and bundled into solitary confinement. Ms Hamilton suffered severe trauma which ruined her career, and after six years of medical and psychological care she committed suicide. In 1994, Lawson wrote to *The Sun Herald* urging compassion in his bid for a fixed release date under the state government's truth in sentencing legislation.

He said that he had donated paintings which had been auctioned to raise 'many thousands of dollars' for charities, and that he had received a good citizenship award from the mayor of Grafton for his efforts.

'Being able to do this has been my only salvation for if it were not for this, I don't think that I could have lived with myself, in fact, I know I couldn't,' he wrote.

But in June 1994, Supreme Court Judge Justice Jeremy Badgery-Parker rejected Lawson's application saying that despite his apparent rehabilitation, there was 'a very significant risk' that Lawson would be of danger to the community if released.

Relatives and friends of his victims applauded the judge's decision and they argued that Lawson should rot in jail. On November 29, 2003 that's what happened.

That is rather gruesome insight, I suppose, into the mind of one person who is described from monster to sadistic criminal. It is clearly a story which tragically tells the tale of a very sick person who not only took the lives of others but also committed the most horrendous crimes. Even in the protection of the gaol environment, with the accessibility to his video recorder, he was able to film and edit from the television programs even in his later years, and in the last 10 years of his life, particularly, to pursue this most foul perversion manifested in the form of child pornography.

Obviously, Madam Acting Speaker, the circumstances are extreme, but I wanted to highlight that this is not a new crime. Whilst I applaud the government for ensuring that we remain contemporary in the legislation to catch offenders, it certainly is an offence which seems to see no bounds in what the offender will go to in order to ensure that they have access to this type of material, and are prepared to create it, replicate it, distribute it, supply it and sell it. That is something, as I said, that not only continues if the person is untreated but also clearly is an aspect which can continue way beyond the usual early criminal behaviour that applies to so many other offences in which the younger generations may engage. So, it is out there, it has always been there, it is a hideous offence, and it needs to be dealt with.

The process, again, has been somewhat covered in the second reading speech, but the government has given notice of amendments. I indicated that the amendments have the effect of moving child pornography offences from the Summary Offences Act into the Criminal Law Consolidation Act and, as you might expect, Madam Acting Speaker, and as I am sure is well known to the house, the Summary Offences Act deals with more minor offences. It has a less formal and complicated process in relation to the obligations of the prosecution and, to some extent, properly reflects that the penalties that apply in relation to summary offences earn and attract a less formal approach. When you move child pornography offences into the Criminal Law Consolidation Act and you make these indictable offences, you are sending a very clear message to the community that this parliament, and indeed the government in introducing this bill, treats this matter very seriously and expects that those who offend in this area ought to be treated in the penalties that are prescribed at a much higher level, and that that should better be reflected by the imposition of the maximum prison terms to which I have referred.

Of course, that attracts a more formal approach, practice and procedure both, again, in relation to the obligations of the prosecution and the process under which the defendant is entitled to be protected during the course of that process, so that a fair and just hearing is undertaken, and with that more formal process are certain obligations in the preliminary hearing and at the trial.

While the government is proposing to introduce amendments to deal with the Criminal Law (Forensic Procedures) Act to bring it into line with the proposed transfer, to which the opposition has no objection and of which we have had some notice, I am concerned to note that the government has provided to the opposition in the last hour two further amendments which propose to amend the Summary Procedure Act to the extent of the rules that will apply in relation to the preliminary examination of charges of indictable offences. Essentially, my understanding is that, given the material that is often taken into the possession of the police at the time of the charges being laid, the nature of the material is such that it is the government's objective to ensure that copies of this material are not (as the defendant would normally enjoy) made directly available to the defendant. The government wishes to set out a proposed regime which would allow the defendant, with his or her counsel, or indeed any person they propose to call to give expert evidence, to inspect the material at an appointed time or place, presumably at the police station or the area in which the material is kept in safe custody.

There may be very good reason for this, but it is a matter which does seriously change the position, as far as the defendant is concerned, and the very finely balanced obligations, responsibilities and rights in relation to having a fair trial may be interfered with. Therefore, it is proper that the opposition has an opportunity to carefully look at these amendments. We would certainly wish to obtain the advice of the Law Society on this matter. Perhaps the government

has already obtained that advice. I note that this amendment appears to have been drafted on 29 November and it is now 7 December; so perhaps in that time they have obtained advice, and the advice from the Law Society is that this is an exception for the purposes of this offence that they consider is perfectly proper and safe, that there are not any unintended consequences and that the defendant would not be unfairly prejudiced. While the opposition commends the government for ensuring that we have legislation to protect our children, equally we must not interfere with the lawful process that protects all our citizens against a unfair trial.

It is important to say that, in the event that it might be interpreted as a concern raised for the protection of adult male offenders against poor little innocent children, age is not a barrier to these offences and offenders themselves are sometimes children. We must get that right. I call on the government to explain those proposed amendments. Perhaps the minister could clarify why we received this at such late notice, and, if the government has obtained advice from the Law Society, perhaps that could be tabled so that we may have an opportunity to look at it between the houses. I am not sure of the government's intention, or whether it is proposing to press the completion of debate on this bill tonight. I understand there are a number of speakers, so, for the reasons I have indicated previously, I will not refer to some of the articles which I have mentioned. I conclude my contribution.

Mr SNELLING (Playford): I want to speak briefly on this bill and offer my support. The history of child pornography or the censorship of child pornography goes back to the 1970s when there was no separate offence of child pornography. Child pornography was considered part of a subcategory of indecent and offensive material. The censorship debates that occurred in the 1970s generally revolved around the principle that adults should be allowed to see whatever they wished. The debates centred around such magazines as the *OZ* controversy in the United Kingdom.

At that stage, child pornography was not even on the horizon. It was only in late 1970s and into the 1980s that child pornography emerged as an issue, and at that time the possession of child pornography was tacked onto the censorship provisions of the Summary Offences Act. Throughout the 1980s and 1990s—indeed, up until today—with the emergence of the internet and various technologies the problem of child pornography has certainly emerged as a much larger and more serious problem than has ever been the case in the past. It is quite clear that the Summary Offences Act is not an appropriate vehicle to contain this offence. It is a much more serious issue and problem.

This bill, by removing the offence from the Summary Offences Act and inserting it into the Criminal Law Consolidation Act, thereby making it an indictable offence, is important in that it reflects the seriousness with which this parliament considers the offence of possession of child pornography. The bill proposes to multiply by five times the penalties for possession of child pornography, in addition to making it an indictable offence.

I think that is highly appropriate. Of course, most of the abuse which child pornography depicts occurs overseas outside of South Australia's jurisdiction and, obviously, it is not possible for the Crown in South Australia to prosecute the people involved in producing that material. However, what we can do is take a very serious and dim view of the consumers of child pornography who are within the South Australian jurisdiction.

Finally, I want to mention that an important part of this bill is to bring into the realm of child pornography morphed images. In these instances, no child has been abused, no child has been involved in the production of these images; adults are graphically changed by the use of technology and depicted as children. One could argue that this should not be an offence because no child has been abused, but I reject that argument. I think morphed images, while they might not depict the abuse of a child and in that sense may be considered victimless, do foster the notion of children as being objects of sexual desire. So, whilst a particular child might not be a victim, I think all children are the victims of these morphed images, and I also think they offend public decency.

I welcome this legislation. I think it goes a long way towards treating the possession of child pornography with the seriousness that I think the community expects of the parliament. I offer my support to the bill.

Mrs REDMOND (Heysen): I rise to make a brief contribution on this matter. It is of some interest to me in terms of the proposed method of trying to deal with at least part of this particular problem that seems to have become endemic in our society. Whilst I welcome the bill and obviously will support it, I wonder to what extent it will address the problem as it is hitting us now, because it seems to me that most of our child pornography issues are coming about via the internet. It is the very nature of the internet that makes it difficult to come to some sort of position on how best to deal with this problem.

Whilst I understand that this bill is part of a national approach to dealing with the issue, I suspect that in the longer term we will have to deal with it on an international basis, because notwithstanding the way the definitions are set out, if the original offence of either producing or disseminating child pornography occurs overseas, we have the difficulty of a lack of jurisdiction. Equally, if the child pornography is produced here and then disseminated overseas via the internet, we will have some difficulty in terms of the definition being satisfied so far as it relates to the purpose for which the material is disseminated and proving the prurient interest aspect of that definition.

I note that the Criminal Law Consolidation Act is the primary act to be amended. There is reference at the end of the bill to the amendment of the Summary Offences Act by deleting the current definitions of 'child' and 'child pornography'. I welcome that. The current definition of 'child pornography' in the Summary Offences Act is 'indecent or offensive material in which a child. . . is depicted or described in a way that is likely to cause serious and general offence amongst reasonable adult members of the community'. That is a singularly unsatisfactory definition. Things which may not cause any serious or general offence to me might cause serious and general offence to others who might be seen as reasonable adult members of the community. So, I think that definition is beset with difficulties, and I welcome the change that this bill brings about.

In particular, I note that it will create an offence which, essentially, is defined in two parts. The first part is that the pornography has to be material that describes or depicts a child engaging in sexual activity or the image of a child or bodily parts of a child (or what appears to be that) or in the production of which a child has been or appears to be have been involved. The second part is that the material has to be intended, or apparently intended, to excite or gratify sexual interest or to excite or gratify a sadistic or other perverted

interest in violence or cruelty. So, there are two arms to the definition: the actual material that is produced and the intention.

Whilst I welcome the change to the Summary Offences Act because, as I said, I do not think the definition of 'child pornography' should relate to what might be considered reasonable members of the adult community, I do have a little bit of a question about the fact that, under the new definition, material which describes or depicts a child engaging in sexual activity or which contains the image of a child or bodily parts of a child or in the production of which a child has been or appears to have been involved is not of itself an offence. It has to be established, to make this offence stick, that this production was intended or apparently intended to excite or gratify sexual interest or some other perverted interest. I have a bit of a concern about the added implication of having to have that second part in the proof.

In terms of production of the material, I note that the new definition will include what is known as 'morphing', that is, digital manipulation, even though no actual child may have been used in the production of the material. I think the member for Bragg indicated the example of Mr Leonard Lawson in New South Wales. He was taking bits of *Sesame Street* or some other children's program and creating his pornographic collection by digitally manipulating the images that he had of children. So, I am pleased to see that this bill will deal with that particular issue.

I note that it also outlaws grooming children, so it goes some way towards addressing one of the aspects of the internet that is becoming a problem—that is, communicating with a child for a prurient purpose with the intention of making that child amenable to sexual activity. So it does go at least some of the way towards addressing the internet and its use. It has become quite clear, and members will be aware no doubt from reports in the press, that there are predators who, because of the nature of the internet, are able to disguise themselves as being quite different to the people that they really are and establish relationships with young people.

In fact, I remember seeing a television program in which a predator had established a relationship online with a young girl who was only about 12 years of age, and she thought she was talking to another girl about the same age as herself who lived in another town and who also had similar sporting interests (I think it was softball that she was engaged in). Over a period of months that predator was able to glean sufficient information about the child's movements, about where she went to school and about what her parents' movements were that he could track the child and find her. In fact, that particular episode had a happy outcome because the people who came to visit the family were the police officers who had set up the system to show how easy it was for people to be inadvertently caught up in conversations with people on the web not realising that that person was not the person they were holding themselves out to be.

I only have one other comment in relation to this matter, and that is the definition of 'child', as follows:

> 'Child' means a person under or apparently under the age of 16 years.

I cannot quite comprehend why we have 'apparently under' in the definition. I do not understand why we do not simply say that a child means a person under the age of 16 years. I can understand someone appearing over 16 years of age but I cannot understand why you would not simply restrict this offence to someone who is under the age of 16 years.

But, as I said, the bill goes some way towards addressing some of the problems that are emerging. I think it will need further consideration and I suggest that the Attorney continue to look interstate and overseas at what other jurisdictions are doing by way of addressing this problem because, as I said, it is not going to be confined by state or even national borders, and we will need to come to some sort of international solution with the agreement of a range of parties if the real issue of child pornography is to be addressed.

Mr BRINDAL (Unley): It is always a pleasure to follow the member for Heysen because she always makes intelligent contributions to the debate. But I find the nature of this bill somewhat perplexing and I wonder at the parliament's purpose in again safeguarding, in a Victorian-like way, the morality of the public. We seem to be increasingly setting out to prescribe things and fix things, and I do not think we are necessarily very good at doing it. I say at the outset that I do not appreciate nor condone child pornography, but I wonder what this act will do other than create another mess in the statute law of South Australia, because I do not think this law does much to sort out the problem. It appears to leave out some things and to leave a whole lot of things unanswered.

I note that Dr Such says that this will stop people from taking photos of their children in the bath, and I note that the Attorney says, 'Oh, not so, not so,' because the Attorney uses the definition in the act that says: 'describes or depicts a child engaging in sexual activity'. But, as the member for Heysen has pointed out, section 62(a)(ii) says, 'or' (and it is 'or', not 'and') 'consists of, or contains, the image of a child or bodily parts of a child. . . or in the production of which a child . . . appears to have been involved'. If the bodily parts of a child do not include a naked child in the bath, what does? So, quite clearly, the Attorney is already running around giving information that their honours in the court might think is right. Because, if you take a photo of your child in the bath—and the member for Heysen pointed out paragraph (b)—and that photo of the child, even taken innocently, is seen to be 'intended or apparently intended. . . to excite or gratify sexual interest', then you are guilty of this offence.

It would be quite interesting to know who is guilty of the offence. I have seen, over the years, that nudist groups all around the world seem to have made a lot of money by taking supposedly healthy pictures of young children which sell in the West End of London, New York, Sydney and all over the world to people who are apparently not nudists. But they seem to make a huge amount of money by selling hundreds of thousands of copies of these things to people whose reasons for getting them you must really wonder about, and they are generally images of young naked children. Is that pornography under this act? Who commits the offence: the photographers who take it, who are nudists and who simply take photos of their children in good faith; or the people who buy it for a distinctly prurient interest?

I wonder how worldly the people are who have assisted the Attorney to draft this act, how much they go on to the internet and whether they have ever looked at some of these sites because, by any definition, some of the images on these sites are images of naked people. They are not, in themselves, inherently pornographic but there is only one reason those images are on those sites—and that is to create, in the eye of the beholder, a prurient interest. They are not there because someone is looking at a hundred naked little boys or girls and finding some sort of artistic merit or pleasure in that. They are there to excite prurient interest, and yet they are nothing

more than the photo of a naked human being. If the Attorney and the lawyers who have constructed this thing, can come in here and say, 'We have sorted it out,' then they have more faith in themselves than I have, because I would be very surprised if they can tell me how a judge decides which is the photo taken in good faith which then, being used for a prurient interest, becomes pornographic and which does not.

As usual, we are creeping into this place solving the morality of the people in South Australia and telling everyone that we know better than them and that we are going to fix it all up. I think that this is another law that does not fix it up: it probably creates problems, not solves some. The Attorney should have a look at the most defensive of all measures: it is not pornography if it has artistic merit. So I can go to Thailand or Cambodia or somewhere else and take the most gratuitous, pornographic material I like but as long as it has artistic merit it is fine. I will show it all over South Australia and Ros Phillips and the good people of the Festival Of Light can rail about it and the Attorney can come out and say that it has been classified and that it has artistic merit—therefore, it is not pornographic. If that is not a contradiction I do not know what is.

I do not know how these definitions are sustainable. I go back to Dr Such's point that what one father does of his children that is considered quite normal may not be able to be done under this law. Where does it end? We do not have male teachers in primary school any more. I know someone who is capable of being registered as a teacher who is doing a gardening job. He is too scared to take up his registration because he is male and he is primary trained, and he is terrified of being accused of being a paedophile. That is how bad it is. Male teachers cannot touch children in schools who are injured, they cannot hold their hand if they are junior primary teachers, they cannot do a lot of human things because they will get accused of being a paedophile. This type of law does nothing more than feed this ignorant prejudice and pander to the lowest common denominator.

I am the last person to stand up for paedophiles and the last person who would come into this place and stand up for child pornography: I think it is depraved and disgusting and it needs to be dealt with. But, quite frankly, I do not think this bill deals with it in anything like an adequate form. It is a load of rubbish that needs to be taken back and given a good look over. It is an insult to this place for the Attorney to bring this stuff to us and try to pass it off as reasonable law which average South Australians—because that is what the other 46 of us are, we are not the legal geniuses that the Attorney has at his disposal—think may pass for intelligent law for us, for our kids, for our uncles and our aunties, and for the rest of the community.

This is total rubbish; it will do nothing and it will solve nothing. I would like the Attorney, in his explanation, to go through some of these matters:

> That a person who. . . acting for a prurient purpose causes or induces a child to expose any part of his or her body;

How are you ever going to get a conviction for that, because who knows what is in the mind of people? Prurient interest is actually defined in the act—it is called sexual arousal. Are you going to go around taking pictures of men and the tightness of their trousers at the time, or something, to prove that they had some sort of prurient interest? Because that is what the definition says. And how do you do it for a woman? The Attorney may know, and the lawyers might have some way of working it out in a court, but I am not sure.

I was quite interested to see that it also defines what a private act means because I cannot for the life of me see where, after 'private act' is defined, it actually comes into a clause in the bill. I have combed the bill but I cannot see where that definition fits into a clause in the bill, so it appears to me—and I hope you will correct me, because this should be an elemental mistake—that it defines something which then has no place in the act. I would hate to think that was the case because if it was it would totally prove to my mind, and to the rest of the house I would hope, that this bill is nothing more than a cobbled-together effort for the Attorney to come in here five minutes before he goes on Bob Francis to say what a good fellow he is and how he is dealing with child pornography. If the Attorney wants to come back and explain to the house how this bill does what he purports that it will do, then I may be prepared to change my mind but at this stage I think the bill is a con job. And, luckily, I still have 11 minutes with which to continue my remarks, and I seek leave to do so.

Leave granted; debate adjourned.

ADJOURNMENT

At 10 p.m. the house adjourned until Wednesday 8 December at 2 p.m.